2022

CUMULATIVE SUPPLEMENT

TO

MISSISSIPPI CODE

1972 ANNOTATED

Issued September 2022

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH THE 2022 REGULAR SESSION

PUBLISHED BY AUTHORITY OF
THE LEGISLATURE

SUPPLEMENTING

Volume 14

Title 65

(As Revised 2021)

For latest statutes or assistance call 1-800-833-9844

By the Editorial Staff of the Publisher

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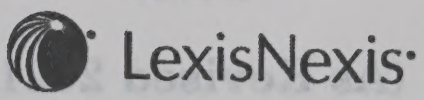

Matthew Bender & Company, Inc.

9443 Springboro Pike, Miamisburg, OH 45342

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User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

PUBLISHER'S FOREWORD

Statutes

The 2022 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2022 Regular Legislative Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 4th Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2022 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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September 2022 LexisNexis

SCHEDULE OF NEW SECTIONS

Added in this Supplement

TITLE 65. HIGHWAYS, BRIDGES AND FERRIES

CHAPTER 1. Transportation Department

Article 1. In General

Sec.
65-1-141.1. 2022 Maintenance Project Fund created; funding sources.
65-1-141.2. 2022 Capacity Project Fund created; funding sources.
65-1-179.1. 2022 Emergency Road and Bridge Fund created; funding sources.
65-1-183. 2022 Infrastructure Match Fund created; funding sources.

CHAPTER 3. State Highway System

SPECIAL DESIGNATIONS OF PORTIONS OF HIGHWAY SYSTEM AND BRIDGES

65-3-71.337. "Sheriff Harold Ray Presley Memorial Intersection" designated.
65-3-71.338. "Korean War Veterans Highway" designated.
65-3-71.339. "Vietnam Veterans Way" designated.
65-3-71.340. "Margaret Gilmer Memorial Bridge" designated.
65-3-71.341. "Carroll V. Hood Memorial Highway" designated.
65-3-71.342. "PFC Damian Laquasha Heidelberg Memorial Intersection" designated.
65-3-71.343. "Hunky Cross Highway in Memory of Austin Morrow and Others that Have Lost Their Lives" designated.
65-3-71.344. "Mark 'Peanut' Youngblood Memorial Highway" designated.
65-3-71.345. "Leonard E. Thompson Memorial Highway" designated.
65-3-71.346. "Nathan Hodges, Jr., Memorial Highway" designated.
65-3-71.347. "Senator John White Memorial Highway" designated.
65-3-71.348. "Corporal Walter Gann Memorial Highway" designated.
65-3-71.349. "Deputy Travis O. Biddle Memorial Highway" designated.
65-3-71.350. "Ray Rogers Memorial Highway" designated.

TITLE 67. ALCOHOLIC BEVERAGES

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67-1-201. Definitions.
67-1-203. Warehouse construction.
67-1-205. Warehouse and distribution operations.
67-1-207. Resumption of control by state upon contract termination.
67-1-209. Contract compliance officer.
67-1-211. Special funds.

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65-1-185.	2022 Infrastructure Match Fund created; funding sources.

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65-1-141.2. 2022 Capacity Project Fund created; funding sources.
65-1-179.1. 2022 Emergency Road and Bridge Fund created; funding sources.
65-1-183. 2022 Infrastructure Match Fund created; funding sources.

§ 65-1-2. Mississippi Department of Transportation.

(1) There is hereby created the Mississippi Department of Transportation, which shall include the following offices:

(a) Office of Administrative Services.

(b) Office of Highways.

(c) Office of State Aid Road Construction.

(d) Office of Intermodal Planning.

(e) Office of Enforcement.

(2) Each office shall be composed of such bureaus as deemed necessary by the executive director of the department.

(3) The department is designated as the single state agency to receive and expend any funds made available by the United States Department of

Transportation or any agency of the federal government for transportation purposes and to cooperate with federal, state, interstate and local agencies, organizations and persons performing activities relating to transportation. This subsection shall not apply to motor carrier safety assistance program funds made available by the federal government to the Public Service Commission.

(4) The powers, duties and responsibilities of the State Highway Department with respect to the construction and maintenance of the state highway system are transferred to the Mississippi Department of Transportation.

(5) The powers, duties and responsibilities of the Mississippi Development Authority with respect to aeronautics are transferred to the Mississippi Department of Transportation.

(6) The powers, duties and responsibilities of the State Tax Commission with respect to the weighing of motor vehicles along the highways of this state at inspection stations and by means of portable scales are transferred to the Mississippi Department of Transportation.

(7) The powers, duties and responsibilities of the Mississippi Development Authority with respect to transportation matters, except with respect to ports, are transferred to the Mississippi Department of Transportation.

(8) The powers, duties and responsibilities of the State Aid Engineer and the Office of State Aid Road Construction are transferred to the Mississippi Department of Transportation.

(9) All powers, duties and responsibilities of the Public Service Commission with regard to railroads, except rate-making authority, are transferred to the Mississippi Department of Transportation. The Mississippi Transportation Commission may perform any act and issue any rule, regulation or order which the commission is permitted to do by the Federal Railroad Safety Act of 1970 (45 USCS et seq.). A copy of any new rule, regulation or order passed by the Mississippi Transportation Commission shall be furnished to members of the Transportation Committees of the Mississippi House of Representatives and the Mississippi Senate. Individuals, corporations or companies affected by the order, rule or regulation shall be notified in accordance with the Mississippi Administrative Procedures Law.

(10) All records, personnel, property and unexpended balances of appropriations, allocation or other funds of all those agencies, boards, commissions, departments, offices, bureaus and divisions that are transferred by Chapter 496, Laws of 1992, shall be transferred to the Mississippi Department of Transportation. The transfer of segregated or special funds shall be made in such a manner that the relation between program and revenue source as provided by law shall be retained.

HISTORY: Laws, 1992, ch. 496, § 2; Laws, 1994, ch. 411, § 1; Laws, 1997, ch. 500, § 1, eff from and after passage (approved March 31, 1997); Laws, 2022, ch. 508, § 10, eff from and after July 1, 2022 (became law without the Governor's signature).

Amendment Notes — The 2022 amendment substituted "Mississippi Development Authority" for "Department of Economic and Community Development" in (5) and (7);

and deleted former (11), which, for a limited period of time, exempted certain personnel actions of the Mississippi Department of Transportation and the Mississippi Transportation Commission from State Personnel Board procedures.

§ 65-1-8. Authority and powers of the commission.

(1) The Mississippi Transportation Commission shall have the following general powers, duties and responsibilities:

(a) To coordinate and develop a comprehensive, balanced transportation policy for the State of Mississippi;

(b) To promote the coordinated and efficient use of all available and future modes of transportation;

(c) To make recommendations to the Legislature regarding alterations or modifications in any existing transportation policies;

(d) To study means of encouraging travel and transportation of goods by the combination of motor vehicle and other modes of transportation;

(e) To take such actions as are necessary and proper to discharge its duties pursuant to the provisions of Chapter 496, Laws of 1992, and any other provision of law;

(f) To receive and provide for the expenditure of any funds made available to it by the Legislature, the federal government or any other source.

(2) In addition to the general powers, duties and responsibilities listed in subsection (1) of this section, the Mississippi Transportation Commission shall have the following specific powers:

(a) To make rules and regulations whereby the Transportation Department shall change or relocate any and all highways herein or hereafter fixed as constituting a part of the state highway system, as may be deemed necessary or economical in the construction or maintenance thereof; to acquire by gift, purchase, condemnation or otherwise, land or other property whatsoever that may be necessary for a state highway system as herein provided, with full consideration to be given to the stimulation of local public and private investment when acquiring such property in the vicinity of Mississippi towns, cities and population centers;

(b) To enforce by mandamus, or other proper legal remedies, all legal rights or rights of action of the Mississippi Transportation Commission with other public bodies, corporations or persons;

(c) To make and publish rules, regulations and ordinances for the control of and the policing of the traffic on the state highways, and to prevent their abuse by any or all persons, natural or artificial, by trucks, tractors, trailers or any other heavy or destructive vehicles or machines, or by any other means whatsoever, by establishing weights of loads or of vehicles, types of tires, width of tire surfaces, length and width of vehicles, with reasonable variations to meet approximate weather conditions, and all other proper police and protective regulations, and to provide ample means for the enforcement of same. The violation of any of the rules, regulations or ordinances so prescribed by the commission shall constitute a misdemeanor.

No rule, regulation or ordinance shall be made that conflicts with any statute now in force or which may hereafter be enacted, or with any ordinance of municipalities. A monthly publication giving general information to the boards of supervisors, employees and the public may be issued under such rules and regulations as the commission may determine;

(d) To give suitable numbers to highways and to change the number of any highway that shall become a part of the state highway system. However, nothing herein shall authorize the number of any highway to be changed so as to conflict with any designation thereof as a U.S. numbered highway. Where, by a specific act of the Legislature, the commission has been directed to give a certain number to a highway, the commission shall not have the authority to change such number;

(e)(i) To make proper and reasonable rules, regulations, and ordinances for the placing, erection, removal or relocation of telephone, telegraph or other poles, signboards, fences, gas, water, sewerage, oil or other pipelines, and other obstructions that may, in the opinion of the commission, contribute to the hazards upon any of the state highways, or in any way interfere with the ordinary travel upon such highways, or the construction, reconstruction or maintenance thereof, and to make reasonable rules and regulations for the proper control thereof. Any violation of such rules or regulations or noncompliance with such ordinances shall constitute a misdemeanor;

(ii) Except as otherwise provided for in this paragraph, whenever the order of the commission shall require the removal of, or other changes in the location of telephone, telegraph or other poles, signboards, gas, water, sewerage, oil or other pipelines; or other similar obstructions on the right-of-way or such other places where removal is required by law, the owners thereof shall at their own expense move or change the same to conform to the order of the commission. Any violation of such rules or regulations or noncompliance with such orders shall constitute a misdemeanor;

(iii) Rural water districts, rural water systems, nonprofit water associations and municipal public water systems in municipalities with a population of ten thousand (10,000) or less, according to the latest federal decennial census, shall not be required to bear the cost and expense of removal and relocation of water and sewer lines and facilities constructed or in place in the rights-of-way of state highways. The cost and expense of such removal and relocation, including any unpaid prior to July 1, 2002, shall be paid by the Department of Transportation;

(iv) Municipal public sewer systems and municipal gas systems owned by municipalities with a population of ten thousand (10,000) or less, according to the latest federal decennial census, shall not be required to bear the cost and expense of removal and relocation of lines and facilities constructed or in place in the rights-of-way of state highways. The cost and expense of such removal and relocation, including any unpaid prior to July 1, 2003, shall be paid by the Department of Transportation;

(f) To regulate and abandon grade crossings on any road fixed as a part of the state highway system, and whenever the commission, in order to avoid a grade crossing with the railroad, locates or constructs said road on one side of the railroad, the commission shall have the power to abandon and close such grade crossing, and whenever an underpass or overhead bridge is substituted for a grade crossing, the commission shall have power to abandon such grade crossing and any other crossing adjacent thereto. Included in the powers herein granted shall be the power to require the railroad at grade crossings, where any road of the state highway system crosses the same, to place signal posts with lights or other warning devices at such crossings at the expense of the railroad, and to regulate and abandon underpass or overhead bridges and, where abandoned because of the construction of a new underpass or overhead bridge, to close such old underpass or overhead bridge, or, in its discretion, to return the same to the jurisdiction of the county board of supervisors;

(g) To make proper and reasonable rules and regulations to control the cutting or opening of the road surfaces for subsurface installations;

(h) To make proper and reasonable rules and regulations for the removal from the public rights-of-way of any form of obstruction, to cooperate in improving their appearance, and to prescribe minimum clearance heights for seed conveyors, pipes, passageways or other structure of private or other ownership above the highways;

(i) To establish, and have the Transportation Department maintain and operate, and to cooperate with the state educational institutions in establishing, enlarging, maintaining and operating a laboratory or laboratories for testing materials and for other proper highway purposes;

(j) To provide, under the direction and with the approval of the Department of Finance and Administration, suitable offices, shops and barns in the City of Jackson;

(k) To establish and have enforced set-back regulations;

(*l*) To cooperate with proper state authorities in producing limerock for highway purposes and to purchase same at cost;

(m) To provide for the purchase of necessary equipment and vehicles and to provide for the repair and housing of same, to acquire by gift, purchase, condemnation or otherwise, land or lands and buildings in fee simple, and to authorize the Transportation Department to construct, lease or otherwise provide necessary and proper permanent district offices for the construction and maintenance divisions of the department, and for the repair and housing of the equipment and vehicles of the department; however, in each Supreme Court district only two (2) permanent district offices shall be set up, but a permanent status shall not be given to any such offices until so provided by act of the Legislature and in the meantime, all shops of the department shall be retained at their present location. As many local or subdistrict offices, shops or barns may be provided as is essential and proper to economical maintenance of the state highway system;

(n) To cooperate with the Department of Archives and History in having placed and maintained suitable historical markers, including those which

have been approved and purchased by the State Historical Commission, along state highways, and to have constructed and maintained roadside driveways for convenience and safety in viewing them when necessary;

(o) To cooperate, in its discretion, with the Mississippi Department of Wildlife, Fisheries and Parks in planning and constructing roadside parks upon the right-of-way of state highways, whether constructed, under construction, or planned; said parks to utilize where practical barrow pits used in construction of state highways for use as fishing ponds. Said parks shall be named for abundant flora and fauna existing in the area or for the first flora or fauna found on the site;

(p) Unless otherwise prohibited by law, to make such contracts and execute such instruments containing such reasonable and necessary appropriate terms, provisions and conditions as in its absolute discretion it may deem necessary, proper or advisable, for the purpose of obtaining or securing financial assistance, grants or loans from the United States of America or any department or agency thereof, including contracts with several counties of the state pertaining to the expenditure of such funds;

(q) To cooperate with the Federal Highway Administration in the matter of location, construction and maintenance of the Great River Road, to expend such funds paid to the commission by the Federal Highway Administration or other federal agency, and to authorize the Transportation Department to erect suitable signs marking this highway, the cost of such signs to be paid from state highway funds other than earmarked construction funds;

(r) To cooperate, in its discretion, with the Mississippi Forestry Commission and the School of Forestry, Mississippi State University, in a forestry management program, including planting, thinning, cutting and selling, upon the right-of-way of any highway, constructed, acquired or maintained by the Transportation Department, and to sell and dispose of any and all growing timber standing, lying or being on any right-of-way acquired by the commission for highway purposes in the future; such sale or sales to be made in accordance with the sale of personal property which has become unnecessary for public use as provided for in Section 65-1-123, Mississippi Code of 1972;

(s) To expend funds in cooperation with the Division of Plant Industry, Mississippi Department of Agriculture and Commerce, the United States government or any department or agency thereof, or with any department or agency of this state, to control, suppress or eradicate serious insect pests, rodents, plant parasites and plant diseases on the state highway rights-of-way;

(t) To provide for the placement, erection and maintenance of motorist services business signs and supports within state highway rights-of-way in accordance with current state and federal laws and regulations governing the placement of traffic control devices on state highways, and to establish and collect reasonable fees from the businesses having information on such signs;

(u) To request and to accept the use of persons convicted of an offense, whether a felony or a misdemeanor, for work on any road construction, repair or other project of the Transportation Department. The commission is also authorized to request and to accept the use of persons who have not been convicted of an offense but who are required to fulfill certain court-imposed conditions pursuant to Section 41-29-150(d)(1) or 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention Act, being Sections 99-15-101 through 99-15-127, Mississippi Code of 1972. The commission is authorized to enter into any agreements with the Department of Corrections, the State Parole Board, any criminal court of this state, and any other proper official regarding the working, guarding, safekeeping, clothing and subsistence of such persons performing work for the Transportation Department. Such persons shall not be deemed agents, employees or involuntary servants of the Transportation Department while performing such work or while going to and from work or other specified areas;

(v) To provide for the administration of the railroad revitalization program pursuant to Section 57-43-1 et seq.;

(w) The Mississippi Transportation Commission is further authorized, in its discretion, to expend funds for the purchase of service pins for employees of the Mississippi Transportation Department;

(x) To cooperate with the State Tax Commission by providing for weight enforcement field personnel to collect and assess taxes, fees and penalties and to perform all duties as required pursuant to Section 27-55-501 et seq., Sections 27-19-1 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq., Mississippi Code of 1972, with regard to vehicles subject to the jurisdiction of the Office of Weight Enforcement. All collections and assessments shall be transferred daily to the State Tax Commission;

(y) The Mississippi Transportation Commission may delegate the authority to enter into a supplemental agreement to a contract previously approved by the commission if the supplemental agreement involves an additional expenditure not to exceed One Hundred Thousand Dollars ($100,000.00);

(z)(i) The Mississippi Transportation Commission, in its discretion, may enter into agreements with any county, municipality, county transportation commission, business, corporation, partnership, association, individual or other legal entity, for the purpose of accelerating the completion date of scheduled highway construction projects.

(ii) Such an agreement may permit the cost of a highway construction project to be advanced to the commission by a county, municipality, county transportation commission, business, corporation, partnership, association, individual or other legal entity, and repaid to such entity by the commission when highway construction funds become available; provided, however, that repayment of funds advanced to the Mississippi Transportation Commission shall be made no sooner than the commission's identified projected revenue schedule for funding of that particular construction project, and no other scheduled highway construction project

established by statute or by the commission may be delayed by an advanced funding project authorized under this paragraph (z). Repayments to a public or private entity that advances funds to the Mississippi Transportation Commission under this paragraph (z) may not include interest or other fees or charges, and the total amount repaid shall not exceed the total amount of funds advanced to the commission by the entity; however, the inclusion of public entities in this provision does not invalidate any existing agreements authorized under this paragraph (z) before April 19, 2022. The commission shall retain the ability to service, refinance or restructure any indebtedness incurred through any such existing agreements.

(iii) In considering whether to enter into such an agreement, the commission shall consider the availability of financial resources, the effect of such agreement on other ongoing highway construction, the urgency of the public's need for swift completion of the project and any other relevant factors.

(iv) Such an agreement shall be executed only upon a finding by the commission, spread upon its minutes, that the acceleration of the scheduled project is both feasible and beneficial. The commission shall also spread upon its minutes its findings with regard to the factors required to be considered pursuant to subparagraph (iii) of this paragraph (z);

(aa) The Mississippi Transportation Commission, in its discretion, may purchase employment practices liability insurance, and may purchase an excess policy to cover catastrophic losses incurred under the commission's self-insured workers' compensation program authorized under Section 71-3-5. Such policies shall be written by the agent or agents of a company or companies authorized to do business in the State of Mississippi. The deductibles shall be in an amount deemed reasonable and prudent by the commission, and the premiums thereon shall be paid from the State Highway Fund. Purchase of insurance under this paragraph shall not serve as an actual or implied waiver of sovereign immunity or of any protection afforded the commission under the Mississippi Tort Claims Act;

(bb) The Mississippi Transportation Commission is further authorized, in its discretion, to expend funds for the purchase of promotional materials for safety purposes, highway beautification purposes and recruitment purposes;

(cc) To lease antenna space on communication towers which it owns;

(dd) To receive funds from the Southeastern Association of Transportation Officials and from other nonstate sources and expend those funds for educational scholarships in transportation related fields of study. The commission may adopt rules or regulations as necessary for the implementation of the program. A strict accounting shall be made of all funds deposited with the commission and all funds dispersed;

(ee) To contract with any county, if the county chooses to enter such contract, to perform any maintenance on the state highways and interstate highways in that county and any rights-of-way to such highways.

HISTORY: Laws, 1981, ch. 464, § 2; Laws, 1983, ch. 395, § 1; Laws, 1984, ch. 305, § 2; Laws, 1984, ch. 495, § 32; Laws, 1985, ch. 474, § 55; Laws, 1986, ch. 438, § 46; Laws, 1987, ch. 483, § 47; Laws, 1988, ch. 442, § 44; Laws, 1989, ch. 537, § 42; Laws, 1990, ch. 377, § 1; Laws, 1990, ch. 518, § 43; Laws, 1991, ch. 530, § 9; Laws, 1991, ch. 618, § 43; Laws, 1992, ch. 491 § 45; Laws, 1992, ch. 496, § 5; Laws, 1994, ch. 491, § 1; Laws, 1999, ch. 461, § 45; Laws, 2000, ch. 474, § 1; Laws, 2002, ch. 325 , § 1; Laws, 2002, ch. 556, § 6; Laws, 2003, ch. 354, § 1; Laws, 2003, ch. 457, § 1; Laws, 2003, ch. 463, § 1; Laws, 2003, ch. 564, § 2; Laws, 2004, ch. 562, § 3; Laws, 2005, ch. 306, § 1; Laws, 2013, ch. 468, § 1, eff from and after passage (approved Mar. 26, 2013); Laws, 2022, ch. 468, § 2, eff from and after passage (approved April 18, 2022); Laws, 2022, ch. 484, § 1, eff from and after passage (approved April 19, 2022).

Joint Legislative Committee Note — Section 2 of Chapter 468, Laws of 2022, effective from and after passage (approved April 18, 2022), amended this section. Section 1 of Chapter 484, Laws of 2022, effective from and after passage (approved April 19, 2022), also amended this section. As set out above, this section reflects the language of Section 1 of Chapter 484, Laws of 2022, which contains language that specifically provides that it supersedes § 65-1-8 as amended by Chapter 468, Laws of 2022.

Editor's Notes — Laws of 2022, ch. 468, § 3, provides:

"SECTION 3. (1) The Mississippi Transportation Commission, acting through the Mississippi Department of Transportation, is authorized to sell certain state-owned real property and any improvements thereon, which is located in Winston County, Mississippi, such property being more specifically described as follows:

[For a complete description of the property, see Section 3 of Chapter 468, Laws of 2022.]

"(2) The real property and any improvements thereon described in subsection (1) of this section shall be sold by negotiated sale to the Board of Supervisors of Winston County, Mississippi, on such terms as the parties agree. The sale shall not be subject to any requirements as to fair market value or appraisals, except as agreed by the parties.

"(3) All monies derived from the sale of the property described in subsection (1) of this section shall be deposited into a special fund created in the State Treasury for the use and benefit of the Mississippi Department of Transportation. Unexpended amounts remaining in the special fund at the end of the fiscal year shall not lapse into the State General Fund, and any interest earned on the amounts in the special fund shall be deposited to the credit of the special fund.

"(4) The Department of Finance and Administration may correct any discrepancies in the legal description provided in this section.

"(5) The State of Mississippi shall retain all mineral rights to the property sold under this section."

Amendment Notes — The first 2022 amendment (ch. 468), effective April 18, 2022, added (2)(ee).

The second 2022 amendment (ch. 484), effective April 19, 2022, in (2)(z)(ii), in the next-to-last sentence, inserted "public or," and added "however, the inclusion...before April 19, 2022" at the end, and added the last sentence; and added (2)(ee).

§ 65-1-141.1. 2022 Maintenance Project Fund created; funding sources.

There is created in the State Treasury a special fund to be designated as the "2022 Maintenance Project Fund," which shall consist of funds made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. The fund shall be maintained by the

State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Department of Transportation, upon appropriation by the Legislature, to provide for maintenance projects by adopting the Pavement Program of the Three-Year Plan as adopted by the Mississippi Transportation Commission on Minute Book 105, page 732 and further required by Section 65-1-141.

HISTORY: Laws, 2022, ch. 482, § 8, eff from and after July 1, 2022.

§ 65-1-141.2. 2022 Capacity Project Fund created; funding sources.

There is created in the State Treasury a special fund to be designated as the "2022 Capacity Project Fund," which shall consist of funds made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Department of Transportation, upon appropriation by the Legislature, to provide for capacity projects by adopting the Capacity Program of the Three-Year Plan as adopted by the Mississippi Transportation Commission on Minute Book 105, page 732 and further required by Section 65-1-141.

HISTORY: Laws, 2022, ch. 482, § 9, eff from and after July 1, 2022.

§ 65-1-179.1. 2022 Emergency Road and Bridge Fund created; funding sources.

There is created in the State Treasury a special fund to be designated as the "2022 Emergency Road and Bridge Fund," which shall consist of funds made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Department of Transportation, upon appropriation by the Legislature, for the purposes provided in Section 65-1-179. Of the monies expended under this section, it is the intention of the Legislature that the Department of Transportation be excluded from applying for use of funds in order to give preference to counties and municipalities.

HISTORY: Laws, 2022, ch. 482, § 11, eff from and after July 1, 2022.

§ 65-1-183. 2022 Infrastructure Match Fund created; funding sources.

There is created in the State Treasury a special fund to be designated as the "2022 Infrastructure Match Fund," which shall consist of funds made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Department of Transportation, upon appropriation by the Legislature, to provide for funds necessary to match projected federal funds available through the following federal fiscal year from the annual Federal Highway Administration appropriations and from the supplemental Infrastructure Investment and Jobs Act (IIJA) appropriations.

HISTORY: Laws, 2022, ch. 482, § 10, eff from and after July 1, 2022.

CHAPTER 3.

STATE HIGHWAY SYSTEM

Special Designations of Portions of Highway System and Bridges. 65-3-38

SPECIAL DESIGNATIONS OF PORTIONS OF HIGHWAY SYSTEM AND BRIDGES

Sec.

65-3-71.320. "Deputy U.S. Marshal Jake Green and Greene County Deputy Lawrence Dunnam Memorial Highway, EOW April 1, 1921" designated.
65-3-71.337. "Sheriff Harold Ray Presley Memorial Intersection" designated.
65-3-71.338. "Korean War Veterans Highway" designated.
65-3-71.339. "Vietnam Veterans Way" designated.
65-3-71.340. "Margaret Gilmer Memorial Bridge" designated.
65-3-71.341. "Carroll V. Hood Memorial Highway" designated.
65-3-71.342. "PFC Damian Laquasha Heidelberg Memorial Intersection" designated.
65-3-71.343. "Hunky Cross Highway in Memory of Austin Morrow and Others that Have Lost Their Lives" designated.
65-3-71.344. "Mark 'Peanut' Youngblood Memorial Highway" designated.
65-3-71.345. "Leonard E. Thompson Memorial Highway" designated.
65-3-71.346. "Nathan Hodges, Jr., Memorial Highway" designated.
65-3-71.347. "Senator John White Memorial Highway" designated.
65-3-71.348. "Corporal Walter Gann Memorial Highway" designated.
65-3-71.349. "Deputy Travis O. Biddle Memorial Highway" designated.
65-3-71.350. "Ray Rogers Memorial Highway" designated.

§ 65-3-71.320. "Deputy U.S. Marshal Jake Green and Greene County Deputy Lawrence Dunnam Memorial Highway, EOW April 1, 1921" designated.

(1) The segment of Mississippi Highway 42 in Greene County, Mississippi, beginning at its southern intersection with Mississippi Highway 63 and extending to the Greene County and Perry County line, is designated as the "Deputy U.S. Marshal Jake Green and Greene County Deputy Lawrence Dunnam Memorial Highway, EOW April 1, 1921."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2020, ch. 450, § 9, eff from and after July 1, 2020; Laws, 2021, ch. 365, § 1, eff from and after passage (approved March 17, 2021); Laws, 2022, ch. 348, § 5, eff from and after passage (approved March 11, 2022).

Amendment Notes The 2022 amendment, effective March 11, 2022, in (1), substituted "extending to the Greene County and Perry County line" for "extending one (1) mile west."

§ 65-3-71.337. "Sheriff Harold Ray Presley Memorial Intersection" designated.

(1) The intersection of Interstate Highway 22 and Auburn Road, Exit 90, in Lee County, Mississippi, is designated and shall be known as the "Sheriff Harold Ray Presley Memorial Intersection."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the intersection.

HISTORY: Laws, 2022, ch. 335, § 1, eff from and after July 1, 2022.

§ 65-3-71.338. "Korean War Veterans Highway" designated.

(1) The segment of Interstate 22 located in Lee County, Mississippi, beginning at Exit 81 and extending easterly to Exit 87, is designated and shall be known as the "Korean War Veterans Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 336, § 1, eff from and after July 1, 2022.

§ 65-3-71.339. "Vietnam Veterans Way" designated.

(1) The segment of Interstate 22 located in Lee County, Mississippi, beginning at Exit 87 and extending easterly to Exit 94, is designated and shall be known as the "Vietnam Veterans Way."

(2) The Mississippi Department of Transportation shall erect and main-

tain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 337, § 1, eff from and after July 1, 2022.

§ 65-3-71.340. "Margaret Gilmer Memorial Bridge" designated.

(1) The bridge on Interstate 20 Frontage Road located in Warren County, Mississippi, in the City of Vicksburg, is designated and shall be known as the "Margaret Gilmer Memorial Bridge."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 364, § 1, eff from and after July 1, 2022.

§ 65-3-71.341. "Carroll V. Hood Memorial Highway" designated.

(1) The segment of Mississippi Highway 28 located in Copiah County, Mississippi, is designated and shall be known as the "Carroll V. Hood Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 344, § 1, eff from and after July 1, 2022.

§ 65-3-71.342. "PFC Damian Laquasha Heidelberg Memorial Intersection" designated.

(1) The intersection of Mississippi Highway 18 and U.S. Highway 45 located in Clarke County, Mississippi, is designated and shall be known as the "PFC Damian Laquasha Heidelberg Memorial Intersection."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 340, § 1, eff from and after July 1, 2022.

§ 65-3-71.343. "Hunky Cross Highway in Memory of Austin Morrow and Others that Have Lost Their Lives" designated.

(1) The segment of Mississippi Highway 488 located in Leake County, Mississippi, beginning at its intersection with Highway 35 and extending east to Whit Alford Road is designated and shall be known as the "Hunky Cross Highway in Memory of Austin Morrow and Others that Have Lost Their Lives."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 348, § 1, eff from and after passage (approved March 11, 2022).

§ 65-3-71.344. "Mark 'Peanut' Youngblood Memorial Highway" designated.

(1) The segment of U.S. Highway 84 located in Franklin County, Mississippi, beginning one-half (½) mile east of its intersection with Log Cabin Road and extending east to its intersection with Higginbotham Road is designated and shall be known as the "Mark 'Peanut' Youngblood Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 348, § 2, eff from and after passage (approved March 11, 2022).

§ 65-3-71.345. "Leonard E. Thompson Memorial Highway" designated.

(1) The segment of Mississippi Highway 334 located in the corporate limits of Oxford, Mississippi, beginning at the bridge passing over U.S. Highway 278/Mississippi Highway 6 and extending north to University Avenue is designated and shall be known as the "Leonard E. Thompson Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 348, § 3, eff from and after passage (approved March 11, 2022).

§ 65-3-71.346. "Nathan Hodges, Jr., Memorial Highway" designated.

(1) The segment of Mississippi Highway 30 located in the corporate limits of Oxford, Mississippi, beginning at the bridge passing over Mississippi Highway 7 and extending east to County Road 207 is designated and shall be known as the "Nathan Hodges, Jr., Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 348, § 4, eff from and after passage (approved March 11, 2022).

§ 65-3-71.347. "Senator John White Memorial Highway" designated.

(1) The segment of Mississippi Highway 45 located in Prentiss County, Mississippi, beginning at the boundary between Lee County and Prentiss County and extending north for two (2) miles is designated and shall be known as the "Senator John White Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 349, § 1, eff from and after July 1, 2022.

§ 65-3-71.348. "Corporal Walter Gann Memorial Highway" designated.

(1) The segment of Mississippi Highway 130 located in Prentiss County, Mississippi, beginning at its intersection with County Road 2040 and extending to its intersection with Mississippi Highway 364, is designated and shall be known as the "Corporal Walter Gann Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 375, § 1, eff from and after July 1, 2022.

§ 65-3-71.349. "Deputy Travis O. Biddle Memorial Highway" designated.

(1) The segment of U.S. Highway 80 located in Rankin County, Mississippi, within the corporate limits of the City of Brandon, from its intersection with Felicity Street easterly to its intersection with North Street, is designated and shall be known as the "Deputy Travis O. Biddle Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 403, § 1, eff from and after July 1, 2022.

§ 65-3-71.350. "Ray Rogers Memorial Highway" designated.

(1) The segment of United States Highway 80 located in Rankin County, Mississippi, within the corporate limits of the City of Pearl, beginning at its intersection with Bierdeman Road and extending easterly to its intersection with Pirates Cove, is designated and shall be known as the "Ray Rogers Memorial Highway".

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

HISTORY: Laws, 2022, ch. 403, § 2, eff from and after July 1, 2022.

CHAPTER 4.

ECONOMIC DEVELOPMENT HIGHWAY ACT

Sec.
65-4-5. Definitions.

§ 65-4-5. Definitions.

(1) The following words when used in this chapter shall have the meanings herein ascribed unless the context otherwise clearly requires:

(a) "Board" means the Mississippi Development Authority;

(b) "Department" means the Mississippi Department of Transportation;

(c) "High economic benefit project" means:

(i) Any new investment by a private company with capital investments in land, buildings, depreciable fixed assets and improvements of at least Seventy Million Dollars ($70,000,000.00);

(ii) Any new investment of at least Twenty Million Dollars ($20,000,000.00) by a private company having capital investments in this state in land, buildings, depreciable fixed assets and improvements of at least One Billion Dollars ($1,000,000,000.00) in the aggregate;

(iii) Public investment of at least One Hundred Million Dollars ($100,000,000.00) to take place over a specified period of time and in accordance with a master plan duly adopted by the controlling political subdivision;

(iv) Any new investments in land, buildings, depreciable fixed assets and improvements by two (2) private companies upon land that is adjacent whenever the new investments of both companies are at least Sixty Million Dollars ($60,000,000.00) in the aggregate, and such new investments by both private companies provide for the employment of at least five hundred (500) employees in the aggregate;

(v) Any project which would benefit from the construction of any highway bypass which would aid in economic development and would provide an alternate route to avoid an existing route which underpasses a railroad and which would aid in existing or proposed industry;

(vi) Any master planned community;

(vii) Any new investments in land, buildings, depreciable fixed assets and improvements by not more than three (3) private companies physically located within a one-half-mile radius of each other whenever the new investments of such companies are at least Sixty Million Dollars ($60,000,000.00) in the aggregate, and such new investments by such companies provide for the employment of at least three hundred (300) new employees in the aggregate;

(viii) Any new investments in land, buildings, depreciable fixed assets and improvements by two (2) or more private companies upon lands

originally adjacent, but now divided by a four-lane state highway and bordered by a two-lane state highway, and the new investments of the companies are at least Fifty Million Dollars ($50,000,000.00) in the aggregate, and a portion of such new investment will be utilized for the construction of a hospital;

(ix) [Repealed]

(x) Any project as defined in Section 57-75-5(f)(xxi); however, the term "high economic benefit project" does not include the construction of Mississippi Highway 348;

(xi) Any project as defined in Section 17-25-17;

(xii) Any project which would allow access to a national intermodal facility with a minimum capital investment of One Hundred Million Dollars ($100,000,000.00) that is located within five (5) miles of the State of Mississippi and has direct access into an industrial park within the state;

(xiii) Any new investments in land, buildings and depreciable fixed assets and improvements by a private company of at least One Hundred Million Dollars ($100,000,000.00) over a specified period of time in accordance with a defined capital improvement project approved by the board;

(xiv) Any new investments in land, buildings, depreciable fixed assets and improvements of at least Fifteen Million Dollars ($15,000,000.00) by a private company to establish a private regional or national headquarters and such new investments provide for the employment of at least one hundred (100) new employees in the aggregate over a five-year period with those new employees earning an annual average salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified private regional or national headquarters is located, as determined by the Mississippi Department of Employment Security, whichever is less;

However, if the initial investments that a private company made in order to meet the definition of a high economic benefit project under this paragraph (c)(i) and in order to be approved for such project exceeded Fifty Million Dollars ($50,000,000.00), or if subsequent to being approved for the initial project the same company and/or one or more other private companies made additional capital investments exceeding Fifty Million Dollars ($50,000,000.00) in aggregate value in land, buildings, depreciable fixed assets and improvements physically attached to or forming a part of the initially planned site development, then an amount equal to fifty percent (50%) of all such investments that exceeds Fifty Million Dollars ($50,000,000.00) shall be subtracted from the Sixty Million Dollars ($60,000,000.00) in aggregate value of new investments required under this paragraph (c)(vii).

The term "high economic benefit project" does not include any medical

cannabis establishment as defined in the Mississippi Medical Cannabis Act or any form of investment related thereto;

(d) "Political subdivision" means one or more counties or incorporated municipalities in the state, or a state-owned port located in a county bordering on the Gulf of Mexico;

(e) "Private company" means:

(i) Any agricultural, aquacultural, maricultural, processing, distribution, warehousing, manufacturing, transportation, tourism or research and development enterprise;

(ii) Any air transportation and maintenance facility, regional shopping mall, hospital, large hotel, resort or movie industry studio;

(iii) The federal government with respect to any specific project which meets the criteria established in paragraph (c)(i) of this subsection;

(iv) Any existing or proposed industry in regard to a project described in paragraph (c)(v) of this subsection;

(v) A developer with respect to any specific project which meets the criteria established in paragraph (c)(vi) of this subsection; or

(vi) A tourism project approved by the board.

The term "private company" does not include any medical cannabis establishment as defined in the Mississippi Medical Cannabis Act;

(f) "Master planned community" shall have the same meaning as that term is defined in Section 19-5-10.

(2) The Mississippi Department of Transportation is hereby authorized to purchase rights-of-way and construct and maintain roads and highways authorized to be constructed pursuant to this chapter.

HISTORY: Laws, 1988, ch. 565, § 3; Laws, 1989, ch. 524, § 27; Laws, 1990, ch. 502, § 12; Laws, 1990, ch. 580, § 2; Laws, 1992, ch. 493, § 1; Laws, 1995, ch. 548, § 8; Laws, 1997, ch. 537, § 1; Laws, 1999, ch. 579, § 19; Laws, 2000, ch. 440, § 1; Laws, 2000, ch. 590, § 2; Laws, 2003, ch. 443, § 1; Laws, 2004, ch. 594, § 1; Laws, 2007, ch. 409, § 1; Laws, 2009, ch. 557, § 26; Laws, 2010, ch. 520, § 1; Laws, 2011, ch. 480, § 24; Laws, 2013, ch. 455, § 1; Laws, 2014, ch. 530, § 40, eff from and after July 1, 2014; Laws, 2020, ch. 451, § 1, eff from and after July 1, 2020; Laws, 2022, ch. 303, § 97, eff from and after passage (approved February 2, 2022).

Amendment Notes — The 2022 amendment, effective February 2, 2022, in (1)(c), added the last paragraph; and in (1)(e), added the last paragraph, and made minor punctuation changes.

Cross References — Mississippi Medical Cannabis Act, see § 41-137-1 et seq.

§ 65-4-15. Economic Development Highway Fund.

Editor's Notes — Laws of 2022, ch. 510, § 14, effective July 1, 2022, provides:

"SECTION 14. Upon the effective date of this act, the State Fiscal Officer shall transfer the sum of Seven Million Dollars ($7,000,000.00) from the Capital Expense Fund created in Section 27-103-303, Mississippi Code of 1972, to the Economic Development Highway Fund created in Section 65-4-15, Mississippi Code of 1972."

CHAPTER 21.
BRIDGES; GENERAL PROVISIONS

Sec.
65-21-1. Width of bridges and culverts.

§ 65-21-1. Width of bridges and culverts.

All bridges and culverts hereafter built, rebuilt, or placed in the traveled way of any public road in this state shall conform to the design standards in effect at the time of design and shall extend across the full width of the crown of the roadway. On roads having a design width greater than sixteen feet (16′), bridges shall be not less than sixteen feet (16′) wide. All bridges hereafter built or rebuilt shall be built with railings or barriers and appropriate hazard marking signs on either side. This section shall not apply to public highways in this state within the area of, or contingent to, any national forest or reforestation project, which have been or may be taken over, constructed, or reconstructed by a department of the national government, may have bridges or culverts the width of said highways, bridges and culverts be less than twelve feet (12′) wide.

HISTORY: Codes, 1930, § 6311; Laws, 1942, § 8420; Laws, 1926, ch. 223, 1930, ch. 153; Laws, 1934, ch. 221; Laws, 2022, ch. 321, § 1, eff from and after July 1, 2022.

Amendment Notes — The 2022 amendment rewrote the section.

TITLE 67.

ALCOHOLIC BEVERAGES

Chapter 1.	Alcoholic Beverage Control.	67-1-1
Chapter 11.	Mississippi Native Spirit Law.	67-11-1

CHAPTER 1.

ALCOHOLIC BEVERAGE CONTROL

Article 1.	Local Option Alcoholic Beverage Control.	67-1-1
Article 3.	Alcoholic Beverage Control Division Warehouse Construction, Improvements and Operations.	67-1-201

ARTICLE 1.

LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL.

Sec.

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67-1-3.	Prohibition reannounced as law of State; exception as to possession of alcoholic beverages.
67-1-5.	Definitions.
67-1-7.	General applicability of article.
67-1-9.	Alcoholic beverages prohibited except as authorized in this article; penalties.
67-1-11.	Local option election to render article effective in county.
67-1-13.	Local option election to render article ineffective in county.
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Sec.

67-1-41. Department of Revenue as a wholesale distributor and seller of alcoholic beverages; exception to department's exclusive right to sell at wholesale; shipment of wine purchased from winery by individual resident to in-state package retailer; payment of associated taxes, fees, surcharges; procedure.
67-1-43. Obtaining alcoholic beverages from source other than department; penalty.
67-1-51. Permits; distance regulations; prohibition on ownership of more than one package retailer's permit; prohibition on ownership of additional permits by persons living in same household [Subsection (1)(r) repealed effective July 1, 2023].
67-1-51.1. Delivery service permit; contract with holder of package retailer's permit, on-premises retailer's permit, or beer, light wine and light spirit product retail permit for intrastate delivery authorized; delivery without contract under certain circumstances; delivery requirements; application process; enforcement.
67-1-57. Qualification of applicants.
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67-1-67. Transfer of permit.
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67-1-72. Appeal to Board of Tax Appeals from certain actions of the Department of Revenue; notice of hearing; order.
67-1-75. Offenses by holder of package retailer's permit or by employee thereof; penalty.
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67-1-85. Regulation of advertising and display of alcoholic beverages.
67-1-87. General penalty provision.
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67-1-91. Enforcement.
67-1-93. Petition for forfeiture of property other than alcoholic beverages and raw materials; service upon owner, secured or interested party; compliance with procedures.

§ 67-1-1. Short title.

This article shall be known and may be cited as the "Local Option Alcoholic Beverage Control Law" of the State of Mississippi.

HISTORY: Codes, 1942, § 10265-02; Laws, 1966, ch. 540, § 2, eff from and after July 1, 1966.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "This chapter" to "This article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-3. Prohibition reannounced as law of State; exception as to possession of alcoholic beverages.

The policy of this state is reannounced in favor of prohibition of the manufacture, sale, distribution, and transportation of alcoholic beverages; and the provisions against such manufacture, sale, distribution, and transportation of alcoholic beverages, as contained in Chapter 31 of Title 97, Mississippi Code of 1972 and elsewhere, are hereby redeclared the law of this state. The purpose and intent of this article is to vigorously enforce the prohibition laws throughout the state, except in those counties and municipalities voting themselves out from under the prohibition law in accordance with the provisions of this article, and, in those counties and municipalities, to require strict regulation and supervision of the manufacture, sale, distribution, and transportation of intoxicating liquor under a system of state licensing of manufacturers, wholesalers and retailers, which licenses shall be subject to revocation for violations of this article. However, from and after January 1, 2021, prohibition is renounced as to the possession of alcoholic beverages. It shall thereafter be lawful to possess alcoholic beverages throughout the state, unless otherwise prohibited in this article. Nothing herein shall be construed to make lawful the possession of alcoholic beverages with the intent to sell except as authorized under this article.

All laws and parts of laws in conflict with this article are repealed only to the extent of such conflict; however, except as is provided in this article, all laws prohibiting the manufacture, sale, and distribution of alcoholic beverages, which are not in conflict with this article shall remain in full force and effect, and all such laws shall remain in full force and effect in counties and municipalities wherein the manufacture, sale, and distribution of alcoholic beverages has not been authorized as a result of an election held under Section 67-1-11 or Section 67-1-14, Mississippi Code of 1972, or as otherwise provided in this article.

HISTORY: Codes, 1942, §§ 10265-01, 10265-36; Laws, 1966, §§ 1, 36; Laws, 1990, ch. 569, § 2, eff from and after passage (approved April 9, 1990); Laws, 2020, ch. 423, § 1, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" throughout the section to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-5. Definitions.

For the purposes of this article and unless otherwise required by the context:

(a) "Alcoholic beverage" means any alcoholic liquid, including wines of more than five percent (5%) of alcohol by weight, capable of being consumed as a beverage by a human being, but shall not include light wine, light spirit

product and beer, as defined in Section 67-3-3, Mississippi Code of 1972, but shall include native wines and native spirits. The words "alcoholic beverage" shall not include ethyl alcohol manufactured or distilled solely for fuel purposes or beer of an alcoholic content of more than eight percent (8%) by weight if the beer is legally manufactured in this state for sale in another state.

(b) "Alcohol" means the product of distillation of any fermented liquid, whatever the origin thereof, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol.

(c) "Distilled spirits" means any beverage containing more than six percent (6%) of alcohol by weight produced by distillation of fermented grain, starch, molasses or sugar, including dilutions and mixtures of these beverages.

(d) "Wine" or "vinous liquor" means any product obtained from the alcoholic fermentation of the juice of sound, ripe grapes, fruits, honey or berries and made in accordance with the revenue laws of the United States.

(e) "Person" means and includes any individual, partnership, corporation, association or other legal entity whatsoever.

(f) "Manufacturer" means any person engaged in manufacturing, distilling, rectifying, blending or bottling any alcoholic beverage.

(g) "Wholesaler" means any person, other than a manufacturer, engaged in distributing or selling any alcoholic beverage at wholesale for delivery within or without this state when such sale is for the purpose of resale by the purchaser.

(h) "Retailer" means any person who sells, distributes, or offers for sale or distribution, any alcoholic beverage for use or consumption by the purchaser and not for resale.

(i) "State Tax Commission," "commission" or "department" means the Department of Revenue of the State of Mississippi, which shall create a division in its organization to be known as the Alcoholic Beverage Control Division. Any reference to the commission or the department hereafter means the powers and duties of the Department of Revenue with reference to supervision of the Alcoholic Beverage Control Division.

(j) "Division" means the Alcoholic Beverage Control Division of the Department of Revenue.

(k) "Municipality" means any incorporated city or town of this state.

(*l*) "Hotel" means an establishment within a municipality, or within a qualified resort area approved as such by the department, where, in consideration of payment, food and lodging are habitually furnished to travelers and wherein are located at least twenty (20) adequately furnished and completely separate sleeping rooms with adequate facilities that persons usually apply for and receive as overnight accommodations. Hotels in towns or cities of more than twenty-five thousand (25,000) population are similarly defined except that they must have fifty (50) or more sleeping rooms. Any such establishment described in this paragraph with less than fifty (50) beds shall operate one or more regular dining rooms designed to be

constantly frequented by customers each day. When used in this article, the word "hotel" shall also be construed to include any establishment that meets the definition of "bed and breakfast inn" as provided in this section.

(m) "Restaurant" means:

(i) A place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation, which has suitable seating facilities for guests, and which has suitable kitchen facilities connected therewith for cooking an assortment of foods and meals commonly ordered at various hours of the day; the service of such food as sandwiches and salads only shall not be deemed in compliance with this requirement. Except as otherwise provided in this paragraph, no place shall qualify as a restaurant under this article unless twenty-five percent (25%) or more of the revenue derived from such place shall be from the preparation, cooking and serving of meals and not from the sale of beverages, or unless the value of food given to and consumed by customers is equal to twenty-five percent (25%) or more of total revenue; or

(ii) Any privately owned business located in a building in a historic district where the district is listed in the National Register of Historic Places, where the building has a total occupancy rating of not less than one thousand (1,000) and where the business regularly utilizes ten thousand (10,000) square feet or more in the building for live entertainment, including not only the stage, lobby or area where the audience sits and/or stands, but also any other portion of the building necessary for the operation of the business, including any kitchen area, bar area, storage area and office space, but excluding any area for parking. In addition to the other requirements of this subparagraph, the business must also serve food to guests for compensation within the building and derive the majority of its revenue from event-related fees, including, but not limited to, admission fees or ticket sales to live entertainment in the building, and from the rental of all or part of the facilities of the business in the building to another party for a specific event or function.

(n) "Club" means an association or a corporation:

(i) Organized or created under the laws of this state for a period of five (5) years prior to July 1, 1966;

(ii) Organized not primarily for pecuniary profit but for the promotion of some common object other than the sale or consumption of alcoholic beverages;

(iii) Maintained by its members through the payment of annual dues;

(iv) Owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests;

(v) The affairs and management of which are conducted by a board of directors, board of governors, executive committee, or similar governing body chosen by the members at a regular meeting held at some periodic interval; and

(vi) No member, officer, agent or employee of which is paid, or directly or indirectly receives, in the form of a salary or other compensation any

profit from the distribution or sale of alcoholic beverages to the club or to members or guests of the club beyond such salary or compensation as may be fixed and voted at a proper meeting by the board of directors or other governing body out of the general revenues of the club.

The department may, in its discretion, waive the five-year provision of this paragraph. In order to qualify under this paragraph, a club must file with the department, at the time of its application for a license under this article, two (2) copies of a list of the names and residences of its members and similarly file, within ten (10) days after the election of any additional member, his name and address. Each club applying for a license shall also file with the department at the time of the application a copy of its articles of association, charter of incorporation, bylaws or other instruments governing the business and affairs thereof.

(o) "Qualified resort area" means any area or locality outside of the limits of incorporated municipalities in this state commonly known and accepted as a place which regularly and customarily attracts tourists, vacationists and other transients because of its historical, scenic or recreational facilities or attractions, or because of other attributes which regularly and customarily appeal to and attract tourists, vacationists and other transients in substantial numbers; however, no area or locality shall so qualify as a resort area until it has been duly and properly approved as such by the department. The department may not approve an area as a qualified resort area after July 1, 2018, if any portion of such proposed area is located within two (2) miles of a convent or monastery that is located in a county traversed by Interstate 55 and U.S. Highway 98. A convent or monastery may waive such distance restrictions in favor of allowing approval by the department of an area as a qualified resort area. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer of the convent or monastery having the authority to execute such a waiver, and the waiver shall be filed with and verified by the department before becoming effective.

(i) The department may approve an area or locality outside of the limits of an incorporated municipality that is in the process of being developed as a qualified resort area if such area or locality, when developed, can reasonably be expected to meet the requisites of the definition of the term "qualified resort area." In such a case, the status of qualified resort area shall not take effect until completion of the development.

(ii) The term includes any state park which is declared a resort area by the department; however, such declaration may only be initiated in a written request for resort area status made to the department by the Executive Director of the Department of Wildlife, Fisheries and Parks, and no permit for the sale of any alcoholic beverage, as defined in this article, except an on-premises retailer's permit, shall be issued for a hotel, restaurant or bed and breakfast inn in such park.

(iii) The term includes:

1. The clubhouses associated with the state park golf courses at the Lefleur's Bluff State Park, the John Kyle State Park, the Percy Quin State Park and the Hugh White State Park;

2. The clubhouse and associated golf course, tennis courts and related facilities and swimming pool and related facilities where the golf course, tennis courts and related facilities and swimming pool and related facilities are adjacent to one or more planned residential developments and the golf course and all such developments collectively include at least seven hundred fifty (750) acres and at least four hundred (400) residential units;

3. Any facility located on property that is a game reserve with restricted access that consists of at least three thousand (3,000) contiguous acres with no public roads and that offers as a service hunts for a fee to overnight guests of the facility;

4. Any facility located on federal property surrounding a lake and designated as a recreational area by the United States Army Corps of Engineers that consists of at least one thousand five hundred (1,500) acres;

5. Any facility that is located in a municipality that is bordered by the Pearl River, traversed by Mississippi Highway 25, adjacent to the boundaries of the Jackson International Airport and is located in a county which has voted against coming out from under the dry law; however, any such facility may only be located in areas designated by the governing authorities of such municipality;

6. Any municipality with a population in excess of ten thousand (10,000) according to the latest federal decennial census that is located in a county that is bordered by the Pearl River and is not traversed by Interstate Highway 20, with a population in excess of forty-five thousand (45,000) according to the latest federal decennial census;

7. The West Pearl Restaurant Tax District as defined in Chapter 912, Local and Private Laws of 2007;

8.a. Land that is located in any county in which Mississippi Highway 43 and Mississippi Highway 25 intersect and:

A. Owned by the Pearl River Valley Water Supply District, and/or

B. Located within the Reservoir Community District, zoned commercial, east of Old Fannin Road, north of Regatta Drive, south of Spillway Road, west of Hugh Ward Boulevard and accessible by Old Fannin Road, Spillway Road, Spann Drive and/or Lake Vista Place, and/or

C. Located within the Reservoir Community District, zoned commercial, west of Old Fannin Road, south of Spillway Road and extending to the boundary of the corporate limits of the City of Flowood, Mississippi;

b. The board of supervisors of such county, with respect to B and C of item 8.a., may by resolution or other order:

A. Specify the hours of operation of facilities that offer alcoholic beverages for sale,

B. Specify the percentage of revenue that facilities that offer alcoholic beverages for sale must derive from the preparation, cooking and serving of meals and not from the sale of beverages, and

C. Designate the areas in which facilities that offer alcoholic beverages for sale may be located;

9. Any facility located on property that is a game reserve with restricted access that consists of at least eight hundred (800) contiguous acres with no public roads, that offers as a service hunts for a fee to overnight guests of the facility, and has accommodations for at least fifty (50) overnight guests;

10. Any facility that:

a. Consists of at least six thousand (6,000) square feet being heated and cooled along with an additional adjacent area that consists of at least two thousand two hundred (2,200) square feet regardless of whether heated and cooled,

b. For a fee is used to host events such as weddings, reunions and conventions,

c. Provides lodging accommodations regardless of whether part of the facility and/or located adjacent to or in close proximity to the facility, and

d. Is located on property that consists of at least thirty (30) contiguous acres;

11. Any facility and related property:

a. Located on property that consists of at least one hundred twenty-five (125) contiguous acres and consisting of an eighteen-hole golf course, and/or located in a facility that consists of at least eight thousand (8,000) square feet being heated and cooled,

b. Used for the purpose of providing meals and hosting events, and

c. Used for the purpose of teaching culinary arts courses and/or turf management and grounds keeping courses, and/or outdoor recreation and leadership courses;

12. Any facility and related property that:

a. Consist of at least eight thousand (8,000) square feet being heated and cooled,

b. For a fee is used to host events,

c. Is used for the purpose of culinary arts courses, and/or live entertainment courses and art performances, and/or outdoor recreation and leadership courses;

13. The clubhouse and associated golf course where the golf course is adjacent to one or more residential developments and the golf course and all such developments collectively include at least two hundred (200) acres and at least one hundred fifty (150) residential units and are

located a. in a county that has voted against coming out from under the dry law; and b. outside of but in close proximity to a municipality in such county which has voted under Section 67-1-14, after January 1, 2013, to come out from under the dry law;

14. The clubhouse and associated eighteen-hole golf course located in a municipality traversed by Interstate Highway 55 and U.S. Highway 51 that has voted to come out from under the dry law;

15.a. Land that is planned for mixed-use development and consists of at least two hundred (200) contiguous acres with one or more planned residential developments collectively planned to include at least two hundred (200) residential units when completed, and also including a facility that consists of at least four thousand (4,000) square feet that is not part of such land but is located adjacent to or in close proximity thereto, and which land is located:

A. In a county that has voted to come out from under the dry law,

B. Outside the corporate limits of any municipality in such county and adjacent to or in close proximity to a golf course located in a municipality in such county, and

C. Within one (1) mile of a state institution of higher learning;

b. The board of supervisors of such county may by resolution or other order:

A. Specify the hours of operation of facilities that offer alcoholic beverages for sale,

B. Specify the percentage of revenue that facilities that offer alcoholic beverages for sale must derive from the preparation, cooking and serving of meals and not from the sale of beverages, and

C. Designate the areas in which facilities that offer alcoholic beverages for sale may be located;

16. Any facility with a capacity of five hundred (500) people or more, to be used as a venue for private events, on a tract of land in the Southwest Quarter of Section 33, Township 2 South, Range 7 East, of a county where U.S. Highway 45 and U.S. Highway 72 intersect and that has not voted to come out from under the dry law;

17. One hundred five (105) contiguous acres, more or less, located in Hinds County, Mississippi, and in the City of Jackson, Mississippi, whereon are constructed a variety of buildings, improvements, grounds or objects for the purpose of holding events thereon to promote agricultural and industrial development in Mississippi;

18. Land that is owned by a state institution of higher learning, and:

a. Located entirely within a county that has elected by majority vote not to permit the transportation, storage, sale, distribution, receipt and/or manufacture of light wine and beer pursuant to Section 67-3-7, and

b. Adjacent to but outside the incorporated limits of a municipality that has elected by majority vote to permit the sale, receipt, storage and transportation of light wine and beer pursuant to Section 67-3-9.

If any portion of the land described in this item 18 has been declared a qualified resort area by the department before July 1, 2020, then that qualified resort area shall be incorporated into the qualified resort area created by this item 18;

19. Any facility and related property:

a. Used as a flea market or similar venue during a weekend (Saturday and Sunday) immediately preceding the first Monday of a month and having an annual average of at least one thousand (1,000) visitors for each such weekend and five hundred (500) vendors for Saturday of each such weekend, and

b. Located in a county that has not voted to come out from under the dry law and outside of but in close proximity to a municipality located in such county and which municipality has voted to come out from under the dry law;

20. Blocks 1, 2 and 3 of the original town square in any municipality with a population in excess of one thousand five hundred (1,500) according to the latest federal decennial census and which is located in:

a. A county traversed by Interstate 55 and Interstate 20, and

b. A judicial district that has not voted to come out from under the dry law;

21. Any municipality with a population in excess of two thousand (2,000) according to the latest federal decennial census and in which is located a part of White's Creek Lake and in which U.S. Highway 82 intersects with Mississippi Highway 9 and located in a county that is partially bordered on one (1) side by the Big Black River;

22. A restaurant located on a two-acre tract adjacent to a five-hundred-fifty-acre lake in the northeast corner of a county traversed by U.S. Interstate 55 and U.S. Highway 84;

23. Any tracts of land in Oktibbeha County, situated north of Bailey Howell Drive, Lee Boulevard and Old Mayhew Road, east of George Perry Street and south of Mississippi Highway 182, and not located on the property of a state institution of higher learning; however, the board of supervisors of such county may by resolution or other order:

a. Specify the hours of operation of facilities that offer alcoholic beverages for sale;

b. Specify the percentage of revenue that facilities that offer alcoholic beverages for sale must derive from the preparation, cooking and serving of meals and not from the sale of beverages; and

c. Designate the areas in which facilities that offer alcoholic beverages for sale may be located;

24. A municipality in which Mississippi Highway 27 and Mississippi Highway 28 intersect;

25. A municipality through which run Mississippi Highway 35 and Interstate 20;

26. A municipality in which Mississippi Highway 16 and Mississippi Highway 35 intersect;

27. A municipality in which U.S. Highway 82 and Old Highway 61 intersect;

28. A municipality in which Mississippi Highway 8 meets Mississippi Highway 1;

29. A municipality in which U.S. Highway 82 and Mississippi Highway 1 intersect;

30. A municipality in which Mississippi Highway 50 meets Mississippi Highway 9;

31. An area bounded on the north by Pearl Street, on the east by West Street, on the south by Court Street and on the west by Farish Street, within a municipality bordered on the east by the Pearl River and through which run Interstate 20 and Interstate 55;

32. Any facility and related property that:

a. Is contracted for mixed-use development improvements consisting of office and residential space and a restaurant and lounge, partially occupying the renovated space of a four-story commercial building which previously served as a financial institution; and adjacent property to the west consisting of a single-story office building that was originally occupied by the Brotherhood of Carpenters and Joiners of American Local Number 569; and

b. Is situated on a tract of land consisting of approximately one and one-tenth (1.10) acres, and the adjacent property to the west consisting of approximately 0.5 acres, located in a municipality which is the seat of county government, situated south of Interstate 10, traversed by U.S. Highway 90, partially bordered on one (1) side by the Pascagoula River and having its most southern boundary bordered by the Gulf of Mexico, with a population greater than twenty-two thousand (22,000) according to the 2010 federal decennial census; however, the governing authorities of such a municipality may by ordinance:

A. Specify the hours of operation of facilities that offer alcoholic beverages for sale;

B. Specify the percentage of revenue that facilities that offer alcoholic beverages for sale must derive from the preparation, cooking and serving of meals and not from the sale of beverages; and

C. Designate the areas within the facilities in which alcoholic beverages may be offered for sale;

33. Any facility with a maximum capacity of one hundred twenty (120) people that consists of at least three thousand (3,000) square feet being heated and cooled, has a commercial kitchen, has a pavilion that consists of at least nine thousand (9,000) square feet and is located on land more particularly described as follows:

All that part of the East Half of the Northwest Quarter of Section 21, Township 7 South, Range 4 East, Union County, Mississippi, that lies South of Mississippi State Highway 348 right-of-way and containing 19.48 acres, more or less.

ALSO,

The Northeast 38 acres of the Southwest Quarter of Section 21, Township 7 South, Range 4 East, Union County, Mississippi.

ALSO,

The South 81 ½ acres of the Southwest Quarter of Section 21, Township 7 South, Range 4 East, Union County, Mississippi;

34. A municipality in which U.S. Highway 51 and Mississippi Highway 16 intersect;

35. A municipality in which Interstate 20 passes over Mississippi Highway 15;

36. Any municipality that is bordered in its northwestern boundary by the Pearl River, traversed by U.S. Highway 49 and Interstate 20, and is located in a county which has voted against coming out from under the dry law;

37. A municipality in which Mississippi Highway 28 and Mississippi Highway 29 North intersect;

38. An area bounded as follows within a municipality through which run Interstate 22 and Mississippi Highway 15: Beginning at a point at the intersection of Bankhead Street and Tallahatchie Trails; then running to a point at the intersection of Tallahatchie Trails and Interstate 22; then running to a point at the intersection of Interstate 22 and Carter Avenue; then running to a point at the intersection of Carter Avenue and Camp Avenue; then running to a point at the intersection of Camp Avenue and King Street; then running to a point at the intersection of King Street and E. Main Street; then running to a point at the intersection of E. Main Street and Camp Avenue; then running to a point at the intersection of Camp Avenue and Highland Street; then running to a point at the intersection of Highland Street and Adams Street; then running to a point at the intersection of Adams Street and Cleveland Street; then running to a point at the intersection of Cleveland Street and N. Railroad Avenue; then running to a point at the intersection of N. Railroad Avenue and McGill Street; then running to a point at the intersection of McGill Street and Snyder Street; then running to a point at the intersection of Snyder Street and Bankhead Street; then running to a point at the intersection of Bankhead Street and Tallahatchie Trails and the point of the beginning;

39. A municipality through which run Mississippi Highway 43 and U.S. Highway 80;

40. The coliseum in a municipality in which U.S. Highway 72 passes over U.S. Highway 45;

41. A piece of property on the northeast corner of the T-intersection where Builders Square Drive meets Mississippi Highway 471;

42. The clubhouse and associated golf course, tennis courts and related facilities and swimming pool and related facilities located on Oaks Country Club Road less than one-half (1/2) mile to the east of Mississippi Highway 15;

43. Any facility located on land more particularly described as follows:

The East Half (E 1/2) of the Southwest Quarter (SW 1/4) of Section 15, Township 3 North, Range 2 East; a 4 acre parcel in the Southwest Corner of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4), Section 15, Township 3 North, Range 2 East, running 210 feet east and west and 840 feet running north and south; the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section 22, Township 3 North, Range 2 East, all in Rankin County, Mississippi;

44. Any facility located on land more particularly described as follows:

Beginning at a point 1915 feet west and 2171 feet north of southeast corner, Section 11, Township 24 North, Range 2 West, Second Judicial District, Tallahatchie County, Mississippi, which point is the southwest corner of J.C. Section Lot mentioned in deed recorded in Book 50, page 34, in the records of the Chancery Clerk's Office at Sumner, in said District of said County; thence South 80° West, 19 feet to the east boundary of United States Highway 49-E, thence East along the east boundary of said Highway 270 feet to point of beginning of Lot to be conveyed; thence southeast along the east boundary of said Highway 204 feet to a concrete post at the intersection of the east boundary of said Highway with the west boundary of gravel road from Sumner to Webb, known as Oil Mill Road, thence Northwest along west boundary of said Oil Mill Road 194 feet to center of driveway running southwest from said Oil Mill Road to U.S. Highway 49-E; thence South 66° West along center of said driveway 128 feet to point of beginning, being situated in Northwest Quarter of Southeast Quarter of Section 11, together with all improvements situated thereon;

45. Any facility that:

a. Consists of at least five thousand six hundred (5,600) square feet being heated and cooled along with a lakeside patio that consists of at least two thousand two hundred (2,200) square feet, regardless of whether such patio is part of the facility and/or located adjacent to or in close proximity to the facility;

b. Includes a caterer's kitchen and green room for entertainment preparation;

c. For a fee is used to host events; and

d. Is located adjacent to or in close proximity to an approximately nine (9) acre lake on property that consists of at least one hundred twenty (120) acres in a county traversed by Mississippi Highway 15 and U.S. Highway 278;

46. Any municipality with a population in excess of one thousand (1,000) according to the 2010 federal decennial census and which is located in a county that is traversed by U.S. Highways 84 and 98 and has not voted to come out from under the dry law;

47. The clubhouse and associated nine-hole golf course, tennis courts and related facilities and swimming pool and related facilities located on or near U.S. Highway 82 between Mississippi Highway 15 and Mississippi Highway 9;

48. The downtown square area bound East Service Drive, Commerce Street, Second Street and Court Street and adjacent properties in a municipality through which run Interstate 55, U.S. Highway 51 and Mississippi Highway 306;

49. All parcels zoned for mixed-use development located west of Mississippi Highway 589, more than four hundred (400) feet north of Old Highway 24, east of Parkers Creek and Black Creek, and south of J M Burge Road; and

50. Any facility used by a soccer club and located on Old Highway 11 between one-tenth (0.1) and two-tenths (0.2) of a mile from its intersection with Oak Grove Road, in a county in which U.S. Highway 98 and Mississippi Highway 589 intersect.

The status of these municipalities, districts, clubhouses, facilities, golf courses and areas described in this paragraph (o)(iii) as qualified resort areas does not require any declaration of same by the department.

The governing authorities of a municipality described, in whole or in part, in item 6, 21, 24, 25, 26, 27, 28, 29, 30, 31, 34, 35, 36, 37, 38, 39, 46 or 48 of this paragraph (o)(iii) may by ordinance: specify the hours of operation of facilities offering alcoholic beverages for sale; specify the percentage of revenue that facilities offering alcoholic beverages for sale must derive from the preparation, cooking and serving of meals and not from the sale of beverages; and designate the areas in which facilities offering alcoholic beverages for sale may be located.

(p) "Native wine" means any product, produced in Mississippi for sale, having an alcohol content not to exceed twenty-one percent (21%) by weight and made in accordance with revenue laws of the United States, which shall be obtained primarily from the alcoholic fermentation of the juice of ripe grapes, fruits, berries, honey or vegetables grown and produced in Mississippi; provided that bulk, concentrated or fortified wines used for blending may be produced without this state and used in producing native wines. The department shall adopt and promulgate rules and regulations to permit a producer to import such bulk and/or fortified wines into this state for use in blending with native wines without payment of any excise tax that would otherwise accrue thereon.

(q) "Native winery" means any place or establishment within the State of Mississippi where native wine is produced, in whole or in part, for sale.

(r) "Bed and breakfast inn" means an establishment within a municipality where in consideration of payment, breakfast and lodging are habitu-

ally furnished to travelers and wherein are located not less than eight (8) and not more than nineteen (19) adequately furnished and completely separate sleeping rooms with adequate facilities, that persons usually apply for and receive as overnight accommodations; however, such restriction on the minimum number of sleeping rooms shall not apply to establishments on the National Register of Historic Places. No place shall qualify as a bed and breakfast inn under this article unless on the date of the initial application for a license under this article more than fifty percent (50%) of the sleeping rooms are located in a structure formerly used as a residence.

(s) "Board" shall refer to the Board of Tax Appeals of the State of Mississippi.

(t) "Spa facility" means an establishment within a municipality or qualified resort area and owned by a hotel where, in consideration of payment, patrons receive from licensed professionals a variety of private personal care treatments such as massages, facials, waxes, exfoliation and hairstyling.

(u) "Art studio or gallery" means an establishment within a municipality or qualified resort area that is in the sole business of allowing patrons to view and/or purchase paintings and other creative artwork.

(v) "Cooking school" means an establishment within a municipality or qualified resort area and owned by a nationally recognized company that offers an established culinary education curriculum and program where, in consideration of payment, patrons are given scheduled professional group instruction on culinary techniques. For purposes of this paragraph, the definition of cooking school shall not include schools or classes offered by grocery stores, convenience stores or drugstores.

(w) "Campus" means property owned by a public school district, community or junior college, college or university in this state where educational courses are taught, school functions are held, tests and examinations are administered or academic course credits are awarded; however, the term shall not include any "restaurant" or "hotel" that is located on property owned by a community or junior college, college or university in this state, and is operated by a third party who receives all revenue generated from food and alcoholic beverage sales.

(x) "Native spirit" shall mean any beverage, produced in Mississippi for sale, manufactured primarily by the distillation of fermented grain, starch, molasses or sugar produced in Mississippi, including dilutions and mixtures of these beverages. In order to be classified as "native spirit" under the provisions of this article, at least fifty-one percent (51%) of the finished product by volume shall have been obtained from distillation of fermented grain, starch, molasses or sugar grown and produced in Mississippi.

(y) "Native distillery" shall mean any place or establishment within this state where native spirit is produced in whole or in part for sale.

(z) "Warehouse operator" shall have the meaning ascribed in Section 67-1-201.

HISTORY: Codes, 1942, § 10265-05; Laws, 1966, ch. 540, § 5; Laws, 1976, ch.

467, § 12; Laws, 1977, ch. 488, § 2; Laws, 1980, ch. 348, § 1; Laws, 1984, ch. 425, § 1; Laws, 1987, ch. 358; Laws, 1988, ch. 384; Laws, 1990, ch. 569, § 3; Laws, 1994, ch. 558, § 20; Laws, 1998, ch. 306, § 2; Laws, 1999, ch. 453, § 19; Laws, 2004, ch. 397, § 1; Laws, 2008, ch. 366, § 1; Laws, 2009, ch. 465, § 1; Laws, 2009, ch. 492, § 126; Laws, 2009, ch. 558, § 1; Laws, 2012, ch. 323, § 2; Laws, 2012, ch. 428, § 1; Laws, 2012, ch. 501, § 7; Laws, 2014, ch. 346, § 1; Laws, 2015, ch. 413, § 1; Laws, 2016, ch. 401, § 1, eff from and after July 1, 2016; Laws, 2018, ch. 383, § 1, eff from and after July 1, 2018; Laws, 2018, ch. 438, § 1, eff from and after July 1, 2018; Laws, 2020, ch. 314, § 37, eff from and after passage (approved June 18, 2020); Laws, 2020, ch. 429, § 6, eff from and after July 1, 2020; Laws, 2020, ch. 458, § 1, eff from and after July 1, 2020; Laws, 2021, ch. 388, § 7, eff from and after July 1, 2021; Laws, 2021, ch. 449, § 1, eff from and after July 1, 2021; Laws, 2021, ch. 450, § 14, eff from and after July 1, 2021; Laws, 2022, ch. 481, § 1, eff from and after July 1, 2022; Laws, 2022, ch. 483, § 12, eff from and after July 1, 2022.

Joint Legislative Committee Note — Section 12 of Chapter 483, Laws of 2022, effective from and after July 1, 2022, amended this section. Section 1 of Chapter 481, Laws of 2022, effective from and after July 1, 2022, also amended this section. As set out above, this section reflects the language of Section 1 of Chapter 481, Laws of 2022, which contains language that specifically provides that it supersedes § 67-1-5 as amended by Chapter 483, Laws of 2022.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in the introductory paragraph, and in paragraphs (*l*), (m)(i), (n), (o)(ii), (r) and (x) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

Amendment Notes — The first 2022 amendment (ch. 483), added (z).

The second 2022 amendment (ch. 481), deleted "however, the governing authorities of such a municipality may by ordinance" from the former introductory language, and deleted former a. through c., which allowed governing authorities to specify hours of operation of facilities offering alcoholic beverages, the percentage of revenue that must be derived from preparation, cooking and serving of meals versus that derived from sale of beverages, and the areas in which they may be located in (o)(iii)6, 21, 24 through 31, and 34, substituted "eighteen-hole" for "eighteen (18) hole" in (o)(iii)11.a. and 14, added (o)(iii)35 through 50, in the next-to-last paragraph of (o)(iii), substituted "this paragraph (o)(iii)" for "subparagraph (iii) of this paragraph (o)," and added the last paragraph of (o)(iii); and added (z).

§ 67-1-7. General applicability of article.

(1) Except as otherwise provided in Section 67-9-1 for the transportation and possession of limited amounts of alcoholic beverages for the use of an alcohol processing permittee, and subject to all of the provisions and restrictions contained in this article, the manufacture, sale, distribution, and transportation of alcoholic beverages shall be lawful, subject to the restrictions hereinafter imposed, in those counties and municipalities of this state in which, at a local option election called and held for that purpose under the provisions of this article, a majority of the qualified electors voting in such election shall vote in favor thereof.

Beginning on the effective date of this act, except as otherwise provided in Section 67 1 51 for holders of a caterer's permit, the manufacture, sale and distribution of alcoholic beverages shall not be permissible or lawful in

counties except in (a) incorporated municipalities located within such counties, (b) qualified resort areas within such counties approved as such by the department, or (c) clubs within such counties, whether within a municipality or not. However, any permits issued by the department between July 1, 2020, and the day before the effective date of this act for the manufacture, sale and distribution of alcoholic beverages, whether or not issued to permittees in such municipalities, qualified resort areas or clubs, shall be eligible for renewal on or after the effective date of this act.

The manufacture, sale, distribution and possession of native wines or native spirits shall be lawful in any location within any such county except those locations where the manufacture, sale or distribution is prohibited by law other than this section or by regulations of the department.

(2) Notwithstanding the foregoing, within any state park or any state park facility that has been declared a qualified resort area by the department, and within any qualified resort area as defined under Section 67-1-5(o)(iii), an on-premises retailer's permit may be issued for the qualified resort area, and the permittee may lawfully sell alcoholic beverages for consumption on his licensed premises regardless of whether or not the county or municipality in which the qualified resort area is located has voted in favor of coming out from under the dry law, and it shall be lawful to receive, store, sell, possess and consume alcoholic beverages on the licensed premises, and to sell, distribute and transport alcoholic beverages to the licensed premises. Moreover, the governing authorities of a municipality in which a qualified resort area defined under Section 67-1-5(o)(iii)5, 7 or 21 is located, the Pearl River Valley Water Supply District Board which governs the qualified resort area defined under Section 67-1-5(o)(iii)8.a.A, and the board of supervisors of the county in which the qualified resort area defined under Section 67-1-5(o)(iii)8.a.B and C is located, may, by ordinance or resolution, provide that package retailer's permits may be issued in the applicable qualified resort area, and that it shall be lawful to receive, store, sell, possess and distribute alcoholic beverages in accordance with such package retailer's permits.

HISTORY: Codes, 1942, § 10265-04; Laws, 1966, ch. 540, § 4; Laws, 1976, ch. 467, § 13; Laws, 1990, ch. 569, § 4; Laws, 1994, ch. 558, § 21; Laws, 1996, ch. 417, § 1; Laws, 2004, ch. 397, § 2; Laws, 2006, ch. 529, § 6; Laws, 2008, ch. 366, § 2; Laws, 2009, ch. 558, § 3, eff May 26, 2009 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section); Laws, 2020, ch. 423, § 2, eff from and after July 1, 2020; Laws, 2020, ch. 458, § 2, eff from and after July 1, 2020; Laws, 2021, ch. 388, § 8, eff from and after July 1, 2021.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in the first paragraph of (1) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-9. Alcoholic beverages prohibited except as authorized in this article; penalties.

(1) It shall be unlawful for any person to manufacture, distill, brew, sell, import into this state, export from the state, transport, distribute, warehouse, store, solicit, take order for, bottle, rectify, blend, treat, mix or process any alcoholic beverage except as authorized in this article. However, nothing contained herein shall prevent importers, wineries and distillers of alcoholic beverages from storing such alcoholic beverages in private bonded warehouses located within the State of Mississippi for the ultimate use and benefit of the Department of Revenue as provided in Section 67-1-41. The department is hereby authorized to promulgate rules and regulations for the establishment of such private bonded warehouses and for the control of alcoholic beverages stored in such warehouses. Additionally, nothing herein contained shall prevent any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his profession, or prevent any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution. Any drugstore employing a licensed pharmacist may possess and use alcoholic liquors in the combination of prescriptions of duly licensed physicians. The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church shall not be prohibited by this article.

(2) Any person, upon conviction of any provision of this section, shall be punished as follows:

(a) By a fine of not less than One Hundred Dollars ($100.00), nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail not less than one (1) week nor more than three (3) months, or both, for the first conviction under this section.

(b) By a fine of not less than One Hundred Dollars ($100.00) nor more than Five Thousand Dollars ($5,000.00) or by imprisonment in the county jail not less than sixty (60) days, nor more than six (6) months, or both fine and imprisonment, for the second conviction for violating this section.

(c) By a fine of not less than One Hundred Dollars ($100.00) nor more than Five Thousand Dollars ($5,000.00) or by imprisonment in the State Penitentiary not less than one (1) year, nor more than five (5) years, or both fine and imprisonment, for conviction the third time under this section for the violation thereof after having been twice convicted of its violation.

(3) Nothing in this section shall make it unlawful to transport bottles or containers of alcoholic beverages that are legally purchased in this state if the bottles or containers are unopened and are being transported on state or federal highway.

HISTORY: Codes, 1942, § 10265-06; Laws, 1966, ch. 540, § 6; Laws, 1985, ch. 412; Laws, 1993, ch. 505, § 1, eff from and after July 1, 1993; Laws, 2018, ch. 385, § 1, eff from and after July 1, 2018; Laws, 2020, ch. 423, § 3, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in the section heading and in subsection (1) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-11. Local option election to render article effective in county.

(1) Notwithstanding any provision of this article, the legalizing provisions of this article, except as authorized under Section 67-9-1 and Section 67-1-7(2), shall not be effective, applicable or operative in any county unless and until a local option election shall be called and held in such county in the manner and with the results hereinafter provided.

(2) Upon presentation and filing of a proper petition requesting same signed by at least twenty percent (20%) or fifteen hundred (1,500), whichever number is the lesser, of the qualified electors of the county, it shall be the duty of the board of supervisors to call an election at which there shall be submitted to the qualified electors of the county the question of whether or not the sale and distribution of alcoholic beverages shall be permitted in such county as provided in this article. Such election shall be held and conducted by the county election commissioners on a date fixed by the order of the board of supervisors, which date shall not be more than sixty (60) days from the date of the filing of said petition. Notice thereof shall be given by publishing such notice once each week for at least three (3) consecutive weeks in some newspaper published in said county or, if no newspaper be published therein, by such publication in a newspaper in an adjoining county and having a general circulation in the county involved. The election shall be held not earlier than fifteen (15) days from the first publication of such notice.

(3) Said election shall be held and conducted as far as may be possible in the same manner as is provided by law for the holding of general elections. The ballots used thereat shall contain a brief statement of the proposition submitted and, on separate lines, the words "I vote FOR coming out from under the dry law in _____ County ( )" "I vote AGAINST coming out from under the dry law in _____ County ( )" with appropriate boxes in which the voters may express their choice. All qualified electors may vote by marking the ballot with a cross (x) or check (√) mark opposite the words of their choice.

(4) The election commissioners shall canvass and determine the results of said election, and shall certify same to the board of supervisors which shall adopt and spread upon its minutes an order declaring such results. If, in such election, a majority of the qualified electors participating therein shall vote in favor of the proposition, this article shall become applicable and operative in such county and the manufacture, sale and distribution of alcoholic beverages therein shall be lawful to the extent and in the manner permitted hereby. If, on the other hand, a majority of the qualified electors participating in the election shall vote against the proposition, this article, except for Section 67-9-1 and 67-1-7(2), shall not become effective and operative in such county and, except

as otherwise provided under Section 67-9-1 and 67-1-7(2), all laws prohibiting and regulating the manufacture, sale and distribution of alcoholic beverages shall remain in full force and effect and be administered and vigorously prosecuted therein. In either case, no further election shall be held in said county under the provisions of this article for a period of two (2) years from the date of the prior election and then only upon the filing of a petition requesting same signed by at least twenty percent (20%) or fifteen hundred (1,500), whichever number is the lesser, of the qualified electors of the county as is otherwise provided herein.

HISTORY: Codes, 1942, § 10265-35; Laws, 1966, ch. 540, § 35; Laws, 1996, ch. 417, § 6; Laws, 2004, ch. 397, § 3, eff from and after July 1, 2004; Laws, 2020, ch. 423, § 4, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in subsections (1), (2) and (4) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-13. Local option election to render article ineffective in county.

(1) When this article has been made effective and operative in any county as a result of an election called and held as provided in Section 67-1-11, the same may be made ineffective and inapplicable therein by an election called and held upon a petition filed with the board of supervisors requesting same signed by at least twenty percent (20%) or fifteen hundred (1500), whichever number is the lesser, of the qualified electors of the county as is otherwise provided in Section 67-1-11, all of the provisions of which shall be fully applicable thereto. However, nothing herein shall authorize or permit the calling and holding of any election under this article in any county more often than once every two (2) years. If in such election, a majority of the qualified electors participating therein shall vote against the legalized sale of intoxicating liquor, then the prohibition laws of the State of Mississippi, except as otherwise provided under Sections 67-9-1 and 67-1-7(2), shall become applicable in said county.

(2) Notwithstanding an election reinstating the prohibition laws in a political subdivision, the holder of a native wine or native spirit producer's permit or a native wine or native spirit retailer's permit is allowed to continue to operate under such permits and to renew such permits. Possession of native wines or native spirits and personal property related to the activities of the native wine permit or native spirit permit holder which would otherwise be unlawful under prohibition shall be allowed subject to regulations of the Alcoholic Beverage Control Division.

HISTORY: Codes, 1942, § 10265-35; Laws, 1966, ch. 540, § 35; Laws, 1984, ch. 411; Laws, 1996, ch. 417, § 7; Laws, 2004, ch. 397, § 4, eff from and after July 1, 2004; Laws, 2021, ch. 388, § 9, eff from and after July 1, 2021.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in subsection (1) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-14. Local option election to render article ineffective in certain municipalities.

(1) The legalizing provisions of this article may be effective, applicable and operative in any municipality located in a county which has voted against coming out from under the dry law if a local option election shall be called and held in such municipality in the manner and with the results hereinafter provided.

(2)(a) Any municipality in this state having a population of not less than five thousand (5,000) according to the latest federal census and which is located in a county which has voted against coming out from under the dry law, or any municipality that is a county seat and which is located in a county which has voted against coming out from under the dry law, may, at an election held for the purpose under the election laws applicable to such municipality, either prohibit or permit, except as otherwise provided under Section 67-9-1, the sale of alcoholic beverages. An election to determine whether such sale shall be permitted in municipalities wherein its sale is prohibited by law shall be ordered by the municipal governing authorities upon the presentation of a petition to such governing authorities containing the names of at least twenty percent (20%) of the duly qualified voters of such municipality asking for such election. In like manner, an election to determine whether such sale shall be prohibited in municipalities wherein its sale is permitted by law shall be ordered by the municipal governing authorities upon the presentation of a petition to such governing authorities containing the names of at least twenty percent (20%) of the duly qualified voters of such municipality asking for such election. No election on either question shall be held by any one (1) municipality more often than once in two (2) years.

Thirty (30) days' notice shall be given to the qualified electors of such municipality, in the manner prescribed by law, upon the question of either permitting or prohibiting such sale, such notice to contain a statement of the question to be voted on at the election. The ballots to be used in the election shall have the following words printed thereon: "For the legal sale of alcoholic beverages" and the words "Against the legal sale of alcoholic beverages" next below. In marking his ballot the voter shall make a cross (X) opposite the words of his choice.

If in the election a majority of the qualified electors voting in the election shall vote "for the legal sale of alcoholic beverages," then the municipal governing authorities shall pass the necessary order permitting the legal sale of such alcoholic beverages in such municipality. If in the election a majority of the qualified electors voting in the election shall vote "against the

legal sale of alcoholic beverages," then the municipal governing authorities shall pass the necessary order prohibiting the sale of alcoholic beverages in such municipality.

(b) The provisions of this subsection shall also apply to any municipality having a population of not less than six thousand (6,000) according to the latest federal census, a portion of which is located in a county which has voted against coming out from under the dry law and a portion of which is located in a county which has voted in favor of coming out from under the dry law. For the purpose of determining whether or not such a municipality meets the threshold population of six thousand (6,000) which will qualify the municipality to hold an election under this subsection, the entire population of the municipality shall be considered; however, the petition to hold the election authorized in this subsection shall be ordered by the municipal governing authorities upon the presentation of a petition to such governing authorities containing the names of at least twenty percent (20%) of the duly qualified voters of such municipality who reside in that portion of the municipality located in a county which has voted against coming out from under the dry law and the election shall be held only in that portion of the municipality. In all other respects, the authority for the holding of elections and the manner in which such elections shall be conducted shall be as prescribed in paragraph (a) of this subsection; and, after proper certification of election results, the municipal governing authorities shall pass the appropriate order to permit or prohibit the legal sale of alcoholic beverages in that portion of the municipality located in a county which has voted against coming out from under the dry law.

(3) The governing authorities of a municipality that has voted to come out from under the dry law after August 23, 2012, may, by ordinance, provide that alcoholic beverages may be sold in the municipality only by the holder of an on-premises retailer's permit.

HISTORY: Laws, 1990, ch. 569, § 1; Laws, 1993, ch. 445, § 1; Laws, 1996, ch. 417, § 8; Laws, 2012, ch. 462, § 1, eff (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section); Laws, 2020, ch. 423, § 5, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in subsection (1) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-15. Local option elections in counties having two judicial districts.

In any county having two judicial districts, each such judicial district shall be construed to be a political subdivision or subdivision of government on the same basis as a county, and as such, a judicial district will be entitled to all of

the rights, privileges, and immunities as a county for the purposes of authorizing the sale of intoxicating liquor therein under the provisions of this article.

HISTORY: Codes, 1942, § 10265-35; Laws, 1966, ch. 540, § 35, eff from and after July 1, 1966.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" at the end of the section to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-16. Election on question of whether qualified resort to be allowed in municipality; designation of municipality as qualified resort area; county election on question of whether area should be qualified resort area.

(1)(a) Before an area may be designated by the governing authorities of a municipality as an area in which facilities which are defined as qualified resort areas in Section 67-1-5(o)(iii)5 may be located, an election shall be held, under the election laws applicable to the municipality, on the question of whether qualified resort areas shall be allowed in the municipality. An election to determine whether qualified resort areas shall be allowed in the municipality shall be ordered by the municipal governing authorities, upon presentation to the governing authorities of a petition containing the names of at least twenty percent (20%) of the duly qualified voters of the municipality asking for the election. An election on the question may not be held by the municipality more often than once each year.

(b) Thirty (30) days' notice shall be given to the qualified electors of the municipality, in the manner prescribed by law, on the question of allowing qualified resort areas to be established. The notice shall contain a statement of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: "FOR THE ESTABLISHMENT OF QUALIFIED RESORT AREAS," and next below, "AGAINST THE ESTABLISHMENT OF QUALIFIED RESORT AREAS." In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) Qualified resort areas may be established if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

(2)(a) Before a municipality may be designated as a qualified resort area as defined in Section 67-1-5(o)(iii)6, an election shall be held, under the election laws applicable to the municipality, on the question of whether the municipality shall be a qualified resort area. An election to determine whether the municipality shall be a qualified resort area shall be ordered by the municipal governing authorities, upon presentation to the governing authorities of a petition containing the names of at least twenty percent

(20%) of the duly qualified voters of the municipality asking for the election. An election on the question may not be held by the municipality more often than once each year.

(b) Thirty (30) days' notice shall be given to the qualified electors of the municipality, in the manner prescribed by law, on the question of allowing qualified resort areas to be established. The notice shall contain a statement of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: "FOR THE ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below, "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) The municipality may be established as a qualified resort area if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

(3)(a) Before an area may be designated a qualified resort area as defined in Section 67-1-5(o)(iii)7, an election shall be held in the municipality in which the area is located under the election laws applicable to the municipality, on the question of whether the area shall be a qualified resort area. An election to determine whether the area shall be a qualified resort area shall be ordered by the municipal governing authorities, upon presentation to the governing authorities of a petition containing the names of at least twenty percent (20%) of the duly qualified voters of the municipality asking for the election. An election on the question may not be held by the municipality more often than once each year.

(b) Thirty (30) days' notice shall be given to the qualified electors of the municipality, in the manner prescribed by law, on the question of allowing qualified resort areas to be established. The notice shall contain a statement of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: "FOR THE ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below, "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) The area may be established as a qualified resort area if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

(4)(a) Before a municipality may be designated as a qualified resort area as defined in item 21, 35 or 36 of Section 67-1-5(o)(iii), an election shall be held, under the election laws applicable to the municipality, on the question of whether the municipality shall be a qualified resort area. An election to determine whether the municipality shall be a qualified resort area shall be ordered by the municipal governing authorities. An election on the question may not be held by the municipality more often than once each year.

(b) Thirty (30) days' notice shall be given to the qualified electors of the municipality, in the manner prescribed by law, on the question of allowing

qualified resort areas to be established. The notice shall contain a statement of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: "FOR THE ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below, "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) The municipality may be established as a qualified resort area if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

HISTORY: Laws, 2009, ch. 558, § 2, eff May 26, 2009 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section); Laws, 2014, ch. 346, § 2, eff from and after July 1, 2014; Laws, 2020, ch. 458, § 4, eff from and after July 1, 2020; Laws, 2021, ch. 466, § 1, eff from and after July 1, 2021; Laws, 2022, ch. 481, § 2, eff from and after July 1, 2022.

Amendment Notes — The 2022 amendment, in (4)(a), inserted "item 21, 35 or 35 of" and substituted "67-1-5(o)(iii)" for "67-1-5(o)(iii)21."

§ 67-1-17. Unlawful possession of alcoholic beverages; seizure and sale.

(1) It shall be unlawful for any person to have or possess either alcoholic beverages or personal property intended for use in violating the provisions of this article, or regulations prescribed under this article, or Chapter 31 of Title 97, Mississippi Code of 1972. No property rights shall exist in any such personal property or alcoholic beverages. All such personal property and alcoholic beverages shall be considered contraband and shall be seized and forfeited to the state of Mississippi.

(2) The following are subject to forfeiture:

(a) All alcoholic beverages which have been manufactured, distilled, distributed, dispensed or acquired in violation of this article or Chapter 31 of Title 97, Mississippi Code of 1972;

(b) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing or exporting any alcoholic beverage in violation of this article or Chapter 31 of Title 97, Mississippi Code of 1972;

(c) All property which is used, or intended for use, as a container for property described in items (a) or (b) of this subsection;

(d) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt, possession or concealment, of property described in item (a) of this subsection which is in excess of six (6) gallons or of property described in item (b) of this subsection; however,

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under

this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this article or Chapter 31 of Title 97, Mississippi Code of 1972;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission proved by the owner thereof to have been committed or omitted without his knowledge or consent; if the confiscating authority has reason to believe that the conveyance is a leased or rented conveyance, then the confiscating authority shall notify the owner of the conveyance within five (5) days of the confiscation; and

(iii) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;

(e) All money, deadly weapons, books, records and research products and materials, including formulas, microfilm, tapes and data which are used, or intended for use, in violation of this article or Chapter 31 of Title 97, Mississippi Code of 1972.

(3) Property subject to forfeiture may be seized by the alcoholic beverage control division and its agents, local law enforcement officers, Mississippi Highway Patrol officers and other law enforcement personnel charged by Section 67-1-91, with enforcing the provisions of this article upon process issued by any appropriate court having jurisdiction over the property. Seizure without process may be made if:

(a) The Seizure is incident to an arrest or a search under a search warrant or an administrative inspection under Section 67-1-37(k);

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this article or Chapter 31 of Article 97, Mississippi Code of 1972; or

(c) The alcoholic beverage control division of the state tax commission and other law enforcement personnel described in this subsection have probable cause to believe that the property was used or is intended to be used in violation of this article or Chapter 31 of Article 97, Mississippi Code of 1972.

(4) Alcoholic beverages and raw materials seized or detained under the authority of this article or Chapter 31 of Title 97, Mississippi Code of 1972, is deemed to be in the custody of the agent or agency so seizing the property and subject only to the orders and decrees of the court having jurisdiction over the property. When such property is seized it may be retained as evidence until final disposition of the cause in which such property is involved, and then the agent or agency so seizing the property shall physically transfer such alcoholic beverage or raw material to the director of the alcoholic beverage control division of the state tax commission together with an appropriate inventory of the items seized. Alcoholic beverages and raw materials seized or detained under the authority of this section shall be disposed of in accordance with the provisions of Section 67-1-18.

(5) Any property other than alcoholic beverages and raw materials seized or detained pursuant to this article or Chapter 31 of Title 97, Mississippi Code

of 1972, shall be deemed to be in the custody of the agent or agency so seizing the property and subject only to the orders and decrees of the court having jurisdiction over the property. When such property is seized it may be retained as evidence until the final disposition of the cause in which such property is involved. Property seized or detained other than alcoholic beverages or raw materials shall be disposed of in accordance with the provisions of Sections 67-1-93, 67-1-95 and 67-1-97.

HISTORY: Codes, 1942, § 10265-07; Laws, 1966, ch. 540, § 7; Laws, 1971, ch. 347, § 1; Laws, 1984, ch. 424, § 1, eff from and after passage (approved April 23, 1984).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" throughout the section to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-18. Disposal of seized property by Department of Revenue.

(1) Any alcoholic beverage, light wine, beer, light spirit product or raw material seized under the authority of this article, Chapter 3 of Title 67, or Chapter 31 of Title 97, Mississippi Code of 1972, shall be submitted to the custody of the Mississippi Department of Revenue for disposition.

(2)(a) Except as otherwise provided in this paragraph, the department shall not dispose of any alcoholic beverage, light wine, beer, light spirit product or raw material without first providing reasonable notice to all individuals having an interest in the property and an opportunity for them to appear and establish their right or claim to the property. If no hearing is requested by the passage of the appropriate deadline, the department shall require the alcoholic beverages, light wine, beer, light spirit products or raw materials to be sold for the benefit of the state or destroyed.

(b) The provisions of paragraph (a) of this subsection shall not apply in cases in which the owner or possessor of the alcoholic beverage, light wine, beer, light spirit product or raw material is convicted of selling or possessing alcoholic beverages, beer, light spirit products, light wine or raw materials in a manner or location prohibited by law, or convicted of a violation of Section 67-1-81(2) or 67-3-70. In such cases, the alcoholic beverage, light wine, beer, light spirit product or raw materials seized in connection with the violation may be disposed of in the manner prescribed by the department.

(3)(a) If the department orders the property, other than alcoholic beverages, sold, then the property shall be sold to the highest bidder, the bidder being any person, firm or government agency. The offer for sale shall be made to not less than three (3) qualified prospective buyers, by mailing them an invitation to bid, which shall describe the property, terms of sale, method of delivery, manner of bidding and fixing a time of not more than fifteen (15) days from the date of invitation for opening of bids received by the department.

(b) All bids and payment shall be made in the manner as prescribed by the department. Bids, after opening, shall be subject to public inspection.

(4) If the department orders the sale of seized alcoholic beverages, it may place the alcoholic beverages in the state inventory to be sold to authorized retailers in the same manner as other alcoholic beverages in the state inventory are sold.

(5) Any appeal from a seizure and disposal made under this section shall be made pursuant to Section 67-1-72.

HISTORY: Laws, 1984, ch. 424, § 2; Laws, 2015, ch. 438, § 2; Laws, 2016, ch. 470, § 1, eff from and after July 1, 2016; Laws, 2020, ch. 314, § 38, eff from and after passage (approved June 18, 2020); Laws, 2020, ch. 322, § 1, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in subsection (1) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-19. Administration of article.

Except as otherwise noted, the administration and enforcement of this article shall be vested in the Department of Revenue. There is hereby created the Alcoholic Beverage Control Division within and as a part of the Department of Revenue.

HISTORY: Codes, 1942, § 10265-08; Laws, 1966, ch. 540, § 8; Laws, 1980, ch. 561, § 13; Laws, 2009, ch. 492, § 127, eff from and after July 1, 2010; Laws, 2022, ch. 483, § 13, eff from and after July 1, 2022.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in the section to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

Amendment Notes — The 2022 amendment added the exception at the beginning.

§ 67-1-23. Appointment of division personnel; oath.

The Commissioner of Revenue of the Department of Revenue shall appoint a director of the division, and may appoint or employ such agents, inspectors, clerks and other employees for such division as may be necessary to carry out the provisions of this article or to perform the duties and exercise the powers conferred by this article upon the department. The Commissioner of Revenue shall have the authority to employ, compensate, terminate, suspend with or without pay, promote, demote, transfer or reprimand the director, agents, inspectors, clerks and other employees of the division. The director and all permanent employees of the division shall devote their full time to the duties of their respective offices.

HISTORY: Codes, 1942, § 10265-10; Laws, 1966, ch. 540, § 10; Laws, 1980, ch. 561, § 14; Laws, 2009, ch. 492, § 128, eff from and after July 1, 2010.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in the first sentence to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-25. Qualifications of personnel.

No person shall be appointed director, agent or inspector for the commission under this article who is not a citizen of the United States. No director, agent, inspector or other employee shall be appointed under this article who has been convicted of any violation of any federal or state law concerning the manufacture, sale or possession of alcoholic liquor prior or subsequent to July 1, 1966, or who has paid a fine or penalty in settlement of any prosecution against him for any violation of such laws or shall have forfeited his bond to appear in court to answer charges for any such violation, nor shall any person be so appointed who has been convicted of a felony in any state or federal court. No person appointed or employed by the commission under this article may, directly or indirectly, individually or as a member of a partnership or limited liability company, or as a shareholder of a corporation, have any interest whatsoever in the manufacture, sale or distribution of alcoholic liquor, or receive any compensation or profit therefrom, or have any interest whatsoever in the purchases or sales made by the persons authorized by this article to purchase or to sell alcoholic liquor.

This section shall not prevent any person appointed or employed by the commission from purchasing and keeping in his possession for the use of himself or members of his family or guests any alcoholic liquor which may be purchased or kept by any other person by virtue of this article.

HISTORY: Codes, 1942, § 10265-12; Laws, 1966, ch. 540, § 12; Laws, 2006, ch. 529, § 8; Laws, 2007, ch. 462, § 1, eff from and after passage (approved Mar. 26, 2007).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" throughout the section to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-27. Bonds of personnel.

Before entering into the duties of his office, the director, and such other agents, inspectors and employees appointed under the provisions of this article as the commission shall designate, shall give surety bond, with some company authorized to do business in the State of Mississippi and approved by the State Insurance Commissioner, appearing thereon as surety, in a sum of not less than five thousand dollars, conditioned upon the faithful performance of their

duties. The premiums for such bonds shall be paid out of funds appropriated for the support of the commission.

HISTORY: Codes, 1942, § 10265-14; Laws, 1966, ch. 540, § 14, eff from and after July 1, 1966.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in the section to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-29. Compensation of personnel.

The director, secretary, agents, inspectors, clerks and employees of the commission appointed under this article shall receive such reasonable compensation as may be fixed by the commission. The director and all agents, inspectors, clerks, and other employees shall be reimbursed for all actual and necessary traveling and other expenses and disbursements incurred or made by them in the discharge of their official duties. Such compensation and expenses shall be paid from funds appropriated for the support of the commission.

HISTORY: Codes, 1942, § 10265-15; Laws, 1966, ch. 540, § 15, eff from and after July 1, 1966.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in the first sentence to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-31. Law enforcement authority of agents and inspectors; liability of members of commission for acts or omissions of agents or inspectors.

The department shall issue to all agents and inspectors appointed under this article a written certificate of appointment under the seal of said department, of which judicial notice shall be taken by all courts of this state. Such agents and inspectors are hereby declared to be police officers in enforcing the provisions of this article, and in the performance of their duties such employees shall have the authority to bear arms, to make arrests, to make searches and seizures under this article, and to serve any protest, notice or order connected with the enforcement of this article by whatever officer or authority of court issued. The members of the department shall not be personally liable to any person on account of any act, neglect or omission of any such agent or inspector.

The powers and duties of the agents and inspectors shall include, in addition to all others prescribed by law the following powers: to arrest, without warrant, any person committing or attempting to commit a misdemeanor,

felony or a breach of the peace within his presence or view, and to pursue and so arrest any person committing such an offense to and at any place in the state where the person may go or be; and to aid and assist any law enforcement officer, if requested.

HISTORY: Codes, 1942, § 10265-11; Laws, 1966, ch. 540, § 11; Laws, 1982, ch. 384; Laws, 1995, ch. 350, § 1, eff from and after passage (approved March 14, 1995); Laws, 2021, ch. 342, § 1, eff from and after passage (approved March 17, 2021).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" throughout the first paragraph to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-33. Gratuities and gifts to members of the Board of Tax Appeals, Commissioner of Revenue of Department of Revenue or Department of Revenue and employees prohibited.

(1) No member of the Board of Tax Appeals, Commissioner of Revenue of the Department of Revenue, or person appointed or employed by the department under this article, including its warehouse operator, shall solicit, accept or receive any gift, gratuity, emolument or employment from any person subject to the provisions of this article, or from any officer, agent or employee thereof.

(2) No member of the Board of Tax Appeals, the Commissioner of Revenue of the Department of Revenue, or person appointed or employed by the department under this article, including its warehouse operator, shall solicit, request from or recommend, directly or indirectly, to any person subject to the provisions of this article, or to any officer, agent or employee thereof, the appointment of any person to any place or position.

(3) Every person subject to the provisions of this article, and every officer, agent or employee thereof, is hereby forbidden to offer to any member of the Board of Tax Appeals, to the Commissioner of Revenue or to any person appointed or employed by the department under this article, including its warehouse operator, any gift, gratuity, emolument or employment.

(4) If any member of the Board of Tax Appeals, the Commissioner of Revenue or any person appointed or employed by the department under this article, including its warehouse operator, shall violate any of the provisions of this section, he shall be removed from the office or employment held by him.

(5) Every person violating the provisions of this section shall be guilty of a misdemeanor.

(6) For purposes of this provision, the terms "gift," "gratuity," "emolument" and "employment" do not include the payment of expenses associated with social occasions afforded public servants or any other benefit that does not come within the definition of "pecuniary benefit" as defined in Section 25-4-103.

HISTORY: Codes, 1942, § 10265-13; Laws, 1966, ch. 540, § 13; Laws, 2009, ch. 492, § 129, eff from and after July 1, 2010; Laws, 2022, ch. 483, § 14, eff from and after July 1, 2022.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" throughout the section to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

Amendment Notes — The 2022 amendment inserted "including its warehouse operator" in (1) through (4).

§ 67-1-35. Official seal of the Alcoholic Beverage Control Division of the Department of Revenue.

The department may, for authentication of records, process and proceedings, adopt, keep and use a seal for the Alcoholic Beverage Control Division of the Department of Revenue, of which seal judicial notice shall be taken in all courts of this state. Any process, notice or other paper which the department may be authorized by law to issue under this article shall be deemed sufficient if signed by the director and authenticated by such seal. All acts, orders, proceedings, rules, regulations, entries, minutes, and other records of the department in connection with this article, and all reports and documents filed with it under this article, may be proved in any court of this state by a copy thereof certified to by the director with the seal of the division affixed.

HISTORY: Codes, 1942, § 10265-16; Laws, 1966, ch. 540, § 16; Laws, 2009, ch. 492, § 130, eff from and after July 1, 2010.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" throughout the section to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-37. Powers and duties of Department of Revenue with respect to Alcoholic Beverage Control Division.

The Department of Revenue, under its duties and powers with respect to the Alcoholic Beverage Control Division therein, shall have the following powers, functions and duties:

(a) To issue or refuse to issue any permit provided for by this article, or to extend the permit or remit in whole or any part of the permit monies when the permit cannot be used due to a natural disaster or act of God.

(b) To revoke, suspend or cancel, for violation of or noncompliance with the provisions of this article, or the law governing the production and sale of native wines or native spirits, or any lawful rules and regulations of the department issued hereunder, or for other sufficient cause, any permit issued by it under the provisions of this article. The department shall also be authorized to suspend the permit of any permit holder for being out of

compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or Section 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or Section 93-11-163 and any provision of this article, the provisions of Section 93-11-157 or Section 93-11-163, as the case may be, shall control.

(c) To prescribe forms of permits and applications for permits and of all reports which it deems necessary in administering this article.

(d) To fix standards, not in conflict with those prescribed by any law of this state or of the United States, to secure the use of proper ingredients and methods of manufacture of alcoholic beverages.

(e) To issue rules regulating the advertising of alcoholic beverages in the state in any class of media and permitting advertising of the retail price of alcoholic beverages.

(f) To issue reasonable rules and regulations, not inconsistent with the federal laws or regulations, requiring informative labeling of all alcoholic beverages offered for sale within this state and providing for the standards of fill and shapes of retail containers of alcoholic beverages; however, such containers shall not contain less than fifty (50) milliliters by liquid measure.

(g) Subject to the provisions of subsection (3) of Section 67-1-51, to issue rules and regulations governing the issuance of retail permits for premises located near or around schools, colleges, universities, churches and other public institutions, and specifying the distances therefrom within which no such permit shall be issued. The Alcoholic Beverage Control Division shall not issue a package retailer's or on-premises retailer's permit for the sale or consumption of alcoholic beverages in or on the campus of any public school, community or junior college, college or university.

(h) To adopt and promulgate, repeal and amend, such rules, regulations, standards, requirements and orders, not inconsistent with this article or any law of this state or of the United States, as it deems necessary to control the manufacture, importation, transportation, distribution, delivery and sale of alcoholic liquor, whether intended for beverage or nonbeverage use in a manner not inconsistent with the provisions of this article or any other statute, including the native wine and native spirit laws.

(i) To call upon other administrative departments of the state, county and municipal governments, county and city police departments and upon prosecuting officers for such information and assistance as it may deem necessary in the performance of its duties.

(j) To prepare and submit to the Governor during the month of January of each year a detailed report of its official acts during the preceding fiscal year ending June 30, including such recommendations as it may see fit to make, and to transmit a like report to each member of the Legislature of this state upon the convening thereof at its next regular session.

(k) To inspect, or cause to be inspected, any premises where alcoholic liquors intended for sale are manufactured, stored, distributed or sold, and to examine or cause to be examined all books and records pertaining to the business conducted therein.

(*l*) To investigate the administration of laws in relation to alcoholic liquors in this and other states and any foreign countries, and to recommend from time to time to the Governor and through him to the Legislature of this state such amendments to this article, if any, as it may think desirable.

(m) To designate hours and days when alcoholic beverages may be sold in different localities in the state which permit such sale.

(n) To assign employees to posts of duty at locations where they will be most beneficial for the control of alcoholic beverages and to take any other action concerning persons employed under this article as authorized by law and taken in accordance with the rules, regulations and procedures of the State Personnel Board.

(o) To enforce the provisions made unlawful by Chapter 3, Title 67 and Section 97-5-49.

(p) To delegate its authority under this article to the Alcoholic Beverage Control Division, its director or any other officer or employee of the department that it deems appropriate.

(q) To prescribe and charge a fee to defray the costs of shipping alcoholic beverages, provided that such fee is determined in a manner provided by the department by rules and/or regulations adopted in accordance with the Mississippi Administrative Procedures Law.

HISTORY: Codes, 1942, § 10265-17; Laws, 1966, ch. 540, § 17; Laws, 1970, ch. 549, § 1; Laws, 1971, ch. 358, § 1; Laws, 1976, ch. 467, § 14; Laws, 1988, ch. 383, § 1; Laws, 1988, ch. 562, § 1; Laws, 1992, ch. 459, § 1; Laws, 1996, ch. 507, § 15; Laws, 1997, ch. 558, § 2; reenacted and amended, Laws, 1998, ch. 520, § 1; Laws, 2002, ch. 570, § 6; Laws, 2003, ch. 392, § 1; Laws, 2005, ch. 462, § 1; Laws, 2006, ch. 529, § 3; Laws, 2007, ch. 462, § 3; Laws, 2009, ch. 492, § 131; Laws, 2011, ch. 379, § 1; Laws, 2016, ch. 470, § 2, eff from and after July 1, 2016; Laws, 2020, ch. 428, § 1, eff from and after July 1, 2020; Laws, 2020, ch. 458, § 3, eff from and after July 1, 2020; Laws, 2021, ch. 388, § 10, eff from and after July 1, 2021; Laws, 2021, ch. 442, § 3, eff from and after July 1, 2021.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in paragraphs (a) through (c), (h), (*l*), (n) and (p) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-39. Appeals from Board of Tax Appeals orders.

Any appeal from an order of the Board of Tax Appeals regarding an action taken under this article shall be filed without supersedeas to the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the appellant is the department, or to the county of the domicile of any other appellant. Any such appeal shall be based on the record made before the Board

of Tax Appeals and shall be filed within thirty (30) days from the date of the order being appealed. There may be an appeal therefrom to the Supreme Court as in other cases provided, but it shall be without supersedeas on the order of the Board of Tax Appeals to them made and finally determined either by the chancery court or the Supreme Court. Actions taken by the department in suspending a permit when required by Section 93-11-157 or 93-11-163 are not actions resulting in an order from which an appeal may be taken under this section. Any appeal of a permit suspension that is required by Section 93-11-157 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section.

HISTORY: Codes, 1942, § 10265-17; Laws, 1966, ch. 540, § 17; Laws, 1970, ch. 549, § 1; Laws, 1971, ch. 358, § 1; Laws, 1996, ch. 507, § 16; Laws, 2009, ch. 492, § 132, eff from and after July 1, 2010.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in the first sentence to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-41. Department of Revenue as a wholesale distributor and seller of alcoholic beverages; exception to department's exclusive right to sell at wholesale; shipment of wine purchased from winery by individual resident to in-state package retailer; payment of associated taxes, fees, surcharges; procedure.

(1) The department is hereby created a wholesale distributor and seller of alcoholic beverages, not including malt liquors, within the State of Mississippi. It is granted the right to import and sell alcoholic beverages at wholesale within the state, and no person who is granted the right to sell, distribute or receive alcoholic beverages at retail shall purchase any alcoholic beverages from any source other than the department, except as authorized in subsections (4), (9) and (12) of this section. The department may establish warehouses, and the department may purchase alcoholic beverages in such quantities and from such sources as it may deem desirable and sell the alcoholic beverages to authorized permittees within the state including, at the discretion of the department, any retail distributors operating within any military post or qualified resort areas within the boundaries of the state, keeping a correct and accurate record of all such transactions and exercising such control over the distribution of alcoholic beverages as seem right and proper in keeping with the provisions or purposes of this article.

(2) No person for the purpose of sale shall manufacture, distill, brew, sell, possess, export, transport, distribute, warehouse, store, solicit, take orders for, bottle, rectify, blend, treat, mix or process any alcoholic beverage except in accordance with authority granted under this article, or as otherwise provided by law for native wines or native spirits.

(3) No alcoholic beverage intended for sale or resale shall be imported, shipped or brought into this state for delivery to any person other than as provided in this article, or as otherwise provided by law for native wines or native spirits.

(4) The department may promulgate rules and regulations which authorize on-premises retailers to purchase limited amounts of alcoholic beverages from package retailers and for package retailers to purchase limited amounts of alcoholic beverages from other package retailers. The department shall develop and provide forms to be completed by the on-premises retailers and the package retailers verifying the transaction. The completed forms shall be forwarded to the department within a period of time prescribed by the department.

(5) The department may promulgate rules which authorize the holder of a package retailer's permit to permit individual retail purchasers of packages of alcoholic beverages to return, for exchange, credit or refund, limited amounts of original sealed and unopened packages of alcoholic beverages purchased by the individual from the package retailer.

(6) The department shall maintain all forms to be completed by applicants necessary for licensure by the department at all district offices of the department.

(7) The department may promulgate rules which authorize the manufacturer of an alcoholic beverage or wine to import, transport and furnish or give a sample of alcoholic beverages or wines to the holders of package retailer's permits, on-premises retailer's permits, native wine or native spirit retailer's permits and temporary retailer's permits who have not previously purchased the brand of that manufacturer from the department. For each holder of the designated permits, the manufacturer may furnish not more than five hundred (500) milliliters of any brand of alcoholic beverage and not more than three (3) liters of any brand of wine.

(8) The department may promulgate rules disallowing open product sampling of alcoholic beverages or wines by the holders of package retailer's permits and permitting open product sampling of alcoholic beverages by the holders of on-premises retailer's permits. Permitted sample products shall be plainly identified "sample" and the actual sampling must occur in the presence of the manufacturer's representatives during the legal operating hours of on-premises retailers.

(9) The department may promulgate rules and regulations that authorize the holder of a research permit to import and purchase limited amounts of alcoholic beverages from importers, wineries and distillers of alcoholic beverages or from the department. The department shall develop and provide forms to be completed by the research permittee verifying each transaction. The completed forms shall be forwarded to the department within a period of time prescribed by the department. The records and inventory of alcoholic beverages shall be open to inspection at any time by the Director of the Alcoholic Beverage Control Division or any duly authorized agent.

(10) The department may promulgate rules facilitating a retailer's on-site pickup of alcoholic beverages sold by the department or as authorized by the

department, including, but not limited to, native wines and native spirits, so that those alcoholic beverages may be delivered to the retailer at the manufacturer's location instead of via shipment from the department's warehouse.

(11) **[Through June 30, 2023]** This section shall not apply to alcoholic beverages authorized to be sold by the holder of a distillery retailer's permit or a festival wine permit.

(11) **[From and after July 1, 2023]** This section shall not apply to alcoholic beverages authorized to be sold by the holder of a distillery retailer's permit.

(12)(a) An individual resident of this state who is at least twenty-one (21) years of age may purchase wine from a winery and have the purchase shipped into this state so long as it is shipped to a package retailer permittee in Mississippi; however, the permittee shall pay to the department all taxes, fees and surcharges on the wine that are imposed upon the sale of wine shipped by the department or its warehouse operator. No credit shall be provided to the permittee for any taxes paid to another state as a result of the transaction. Package retailers may charge a service fee for receiving and handling shipments from wineries on behalf of the purchasers. The department shall develop and provide forms to be completed by the package retailer permittees verifying the transaction. The completed forms shall be forwarded to the department within a period of time prescribed by the department.

(b) The purchaser of wine that is to be shipped to a package retailer's store shall be required to get the prior approval of the package retailer before any wine is shipped to the package retailer. A purchaser is limited to no more than ten (10) cases of wine per year to be shipped to a package retailer. A package retailer shall notify a purchaser of wine within two (2) days after receiving the shipment of wine. If the purchaser of the wine does not pick up or take the wine from the package retailer within thirty (30) days after being notified by the package retailer, the package retailer may sell the wine as part of his inventory.

(c) Shipments of wine into this state under this section shall be made by a duly licensed carrier. It shall be the duty of every common or contract carrier, and of every firm or corporation that shall bring, carry or transport wine from outside the state for delivery inside the state to package retailer permittees on behalf of consumers, to prepare and file with the department, on a schedule as determined by the department, of known wine shipments containing the name of the common or contract carrier, firm or corporation making the report, the period of time covered by said report, the name and permit number of the winery, the name and permit number of the package retailer permittee receiving such wine, the weight of the package delivered to each package retailer permittee, a unique tracking number, and the date of delivery. Reports received by the department shall be made available by the department to the public via the Mississippi Public Records Act process in the same manner as other state alcohol filings.

Upon the department's request, any records supporting the report shall be made available to the department within a reasonable time after the

department makes a written request for such records. Any records containing information relating to such reports shall be kept and preserved for a period of two (2) years, unless their destruction sooner is authorized, in writing, by the department, and shall be open and available to inspection by the department upon the department's written request. Reports shall also be made available to any law enforcement or regulatory body in the state in which the railroad company, express company, common or contract carrier making the report resides or does business.

Any common or contract carrier that willfully fails to make reports, as provided by this section or any of the rules and regulations of the department for the administration and enforcement of this section, is subject to a notification of violation. In the case of a continuing failure to make reports, the common or contract carrier is subject to possible license suspension and revocation at the department's discretion.

(d) A winery that ships wine under this section shall be deemed to have consented to the jurisdiction of the courts of this state, of the department, of any other state agency regarding the enforcement of this section, and of any related law, rules or regulations.

(e) Any person who makes, participates in, transports, imports or receives a shipment in violation of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of One Thousand Dollars ($1,000.00) or imprisonment in the county jail for not more than six (6) months, or both. Each shipment shall constitute a separate offense.

(13) If any provision of this article, or its application to any person or circumstance, is determined by a court to be invalid or unconstitutional, the remaining provisions shall be construed in accordance with the intent of the Legislature to further limit rather than expand commerce in alcoholic beverages to protect the health, safety, and welfare of the state's residents, and to enhance strict regulatory control over taxation, distribution and sale of alcoholic beverages through the three-tier regulatory system imposed by this article upon all alcoholic beverages to curb relationships and practices calculated to stimulate sales and impair the state's policy favoring trade stability and the promotion of temperance.

HISTORY: Codes, 1942, § 10265-18; Laws, 1966, ch. 540, § 18; Laws, 1976, ch. 467, § 15; Laws, 1988, ch. 397, § 1; Laws, 1990, ch. 479, § 1; Laws, 1992, ch. 574, § 1; Laws, 1994, ch. 538, § 2; Laws, 1998, ch. 413, § 1; Laws, 1999, ch. 408, § 1; Laws, 2006, ch. 352, § 3; Laws, 2006, ch. 529, § 4, eff from and after passage (approved Apr. 3, 2006); Laws, 2018, ch. 453, § 4, eff from and after July 1, 2018; Laws, 2020, ch. 422, § 1, eff from and after January 1, 2021§ 1; Laws, 2020, ch. 429, § 4, eff from and after July 1, 2020; Laws, 2021, ch. 388, § 11, eff from and after July 1, 2021; Laws, 2021, ch. 454, § 2, eff from and after July 1, 2021; Laws, 2022, ch. 483, § 15, eff from and after July 1, 2022.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in subsections (1), (2), (3) and (13) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

Amendment Notes — The 2022 amendment, in (1), inserted "and the department may" in the third sentence; and in (12)(a), added "or its warehouse operator" in the first sentence.

§ 67-1-43. Obtaining alcoholic beverages from source other than department; penalty.

Any authorized retail distributor who shall purchase or receive alcoholic beverages from any source except from the department or its warehouse operator, unless authorized by rules and regulations of the department promulgated under Section 67-1-41, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Five Hundred Dollars ($500.00), nor more than Two Thousand Dollars ($2,000.00), to which may be added imprisonment in the county jail for not more than six (6) months. Any authorization of such person to sell intoxicating beverages may be revoked as provided by law.

HISTORY: Codes, 1942, § 10265-18; Laws, 1966, ch. 540, § 18; Laws, 1976, ch. 467, § 16; Laws, 1988, ch. 397, § 2; Laws, 2006, ch. 352, § 4, eff from and after July 1, 2006; Laws, 2020, ch. 422, § 2, eff from and after January 1, 2021, eff from and after January 1, 2021; Laws, 2022, ch. 483, § 16, eff from and after July 1, 2022.

Amendment Notes — The 2022 amendment substituted "alcoholic beverages" for "intoxicating liquor," and inserted "or its warehouse operator."

§ 67-1-51. Permits; distance regulations; prohibition on ownership of more than one package retailer's permit; prohibition on ownership of additional permits by persons living in same household [Subsection (1)(r) repealed effective July 1, 2023].

(1) Permits which may be issued by the department shall be as follows:

(a) **Manufacturer's permit.** A manufacturer's permit shall permit the manufacture, importation in bulk, bottling and storage of alcoholic liquor and its distribution and sale to manufacturers holding permits under this article in this state and to persons outside the state who are authorized by law to purchase the same, and to sell as provided by this article.

Manufacturer's permits shall be of the following classes:

Class 1. Distiller's and/or rectifier's permit, which shall authorize the holder thereof to operate a distillery for the production of distilled spirits by distillation or redistillation and/or to operate a rectifying plant for the purifying, refining, mixing, blending, flavoring or reducing in proof of distilled spirits and alcohol.

Class 2. Wine manufacturer's permit, which shall authorize the holder thereof to manufacture, import in bulk, bottle and store wine or vinous liquor.

Class 3. Native wine producer's permit, which shall authorize the holder thereof to produce, bottle, store and sell native wines.

Class 4. Native spirit producer's permit, which shall authorize the holder thereof to produce, bottle, store and sell native spirits.

(b) **Package retailer's permit.** Except as otherwise provided in this paragraph and Section 67-1-52, a package retailer's permit shall authorize the holder thereof to operate a store exclusively for the sale at retail in original sealed and unopened packages of alcoholic beverages, including native wines and native spirits, not to be consumed on the premises where sold. Alcoholic beverages shall not be sold by any retailer in any package or container containing less than fifty (50) milliliters by liquid measure. A package retailer's permit, with prior approval from the department, shall authorize the holder thereof to sample new product furnished by a manufacturer's representative or his employees at the permitted place of business so long as the sampling otherwise complies with this article and applicable department regulations. Such samples may not be provided to customers at the permitted place of business. In addition to the sale at retail of packages of alcoholic beverages, the holder of a package retailer's permit is authorized to sell at retail corkscrews, wine glasses, soft drinks, ice, juices, mixers and other beverages commonly used to mix with alcoholic beverages. Nonalcoholic beverages sold by the holder of a package retailer's permit shall not be consumed on the premises where sold.

(c) **On-premises retailer's permit.** Except as otherwise provided in subsection (5) of this section, an on-premises retailer's permit shall authorize the sale of alcoholic beverages, including native wines and native spirits, for consumption on the licensed premises only; however, a patron of the permit holder may remove one (1) bottle of wine from the licensed premises if: (i) the patron consumed a portion of the bottle of wine in the course of consuming a meal purchased on the licensed premises; (ii) the permit holder securely reseals the bottle; (iii) the bottle is placed in a bag that is secured in a manner so that it will be visibly apparent if the bag is opened; and (iv) a dated receipt for the wine and the meal is available. Additionally, as part of a carryout order, a permit holder may sell one (1) bottle of wine to be removed from the licensed premises for every two (2) entrees ordered. Such a permit shall be issued only to qualified hotels, restaurants and clubs, small craft breweries, microbreweries, and to common carriers with adequate facilities for serving passengers. In resort areas, whether inside or outside of a municipality, the department, in its discretion, may issue on-premises retailer's permits to such establishments as it deems proper. An on-premises retailer's permit when issued to a common carrier shall authorize the sale and serving of alcoholic beverages aboard any licensed vehicle while moving through any county of the state; however, the sale of such alcoholic beverages shall not be permitted while such vehicle is stopped in a county that has not legalized such sales. If an on-premises retailer's permit is applied for by a common carrier operating solely in the water, such common carrier must, along with all other qualifications for a permit, (i) be certified to carry at least one hundred fifty (150) passengers and/or provide overnight accommodations for at least fifty (50) passengers and (ii) operate primarily in the

waters within the State of Mississippi which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi and/or on the Mississippi River or navigable waters within any county bordering on the Mississippi River.

(d) **Solicitor's permit.** A solicitor's permit shall authorize the holder thereof to act as salesman for a manufacturer or wholesaler holding a proper permit, to solicit on behalf of his employer orders for alcoholic beverages, and to otherwise promote his employer's products in a legitimate manner. Such a permit shall authorize the representation of and employment by one (1) principal only. However, the permittee may also, in the discretion of the department, be issued additional permits to represent other principals. No such permittee shall buy or sell alcoholic beverages for his own account, and no such beverage shall be brought into this state in pursuance of the exercise of such permit otherwise than through a permit issued to a wholesaler or manufacturer in the state.

(e) **Native wine retailer's permit.** Except as otherwise provided in subsection (5) of this section, a native wine retailer's permit shall be issued only to a holder of a Class 3 manufacturer's permit, and shall authorize the holder thereof to make retail sales of native wines to consumers for on-premises consumption or to consumers in originally sealed and unopened containers at an establishment located on the premises of or in the immediate vicinity of a native winery. When selling to consumers for on-premises consumption, a holder of a native wine retailer's permit may add to the native wine alcoholic beverages not produced on the premises, so long as the total volume of foreign beverage components does not exceed twenty percent (20%) of the mixed beverage. Hours of sale shall be the same as those authorized for on-premises permittees in the city or county in which the native wine retailer is located.

(f) **Temporary retailer's permit.** Except as otherwise provided in subsection (5) of this section, a temporary retailer's permit shall permit the purchase and resale of alcoholic beverages, including native wines and native spirits, during legal hours on the premises described in the temporary permit only.

Temporary retailer's permits shall be of the following classes:

Class 1. A temporary one-day permit may be issued to bona fide nonprofit civic or charitable organizations authorizing the sale of alcoholic beverages, including native wine and native spirit, for consumption on the premises described in the temporary permit only. Class 1 permits may be issued only to applicants demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days prior to the proposed date or such other time as the department may determine, that they meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall obtain all alcoholic beverages from package retailers located in the county in which the temporary permit is issued. Alcoholic beverages remaining in stock upon

expiration of the temporary permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2. A temporary permit, not to exceed seventy (70) days, may be issued to prospective permittees seeking to transfer a permit authorized in paragraph (c) of this subsection. A Class 2 permit may be issued only to applicants demonstrating to the department, by a statement signed under the penalty of perjury, that they meet the qualifications of Sections 67-1-5(*l*), (m), (n), (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The department, following a preliminary review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2 temporary permittees must purchase their alcoholic beverages directly from the department or, with approval of the department, purchase the remaining stock of the previous permittee. If the proposed applicant of a Class 1 or Class 2 temporary permit falsifies information contained in the application or statement, the applicant shall never again be eligible for a retail alcohol beverage permit and shall be subject to prosecution for perjury.

Class 3. A temporary one-day permit may be issued to a retail establishment authorizing the complimentary distribution of wine, including native wine, to patrons of the retail establishment at an open house or promotional event, for consumption only on the premises described in the temporary permit. A Class 3 permit may be issued only to an applicant demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days before the proposed date or such other time as the department may determine, that it meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. A Class 3 permit holder shall obtain all alcoholic beverages from the holder(s) of a package retailer's permit located in the county in which the temporary permit is issued. Wine remaining in stock upon expiration of the temporary permit may be returned by the Class 3 temporary permit holder to the package retailer for a refund of the purchase price, with consent of the package retailer, or may be kept by the Class 3 temporary permit holder exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit. No retailer may receive more than twelve (12) Class 3 temporary permits in a calendar year. A Class 3

temporary permit shall not be issued to a retail establishment that either holds a merchant permit issued under paragraph (*l*) of this subsection, or holds a permit issued under Chapter 3, Title 67, Mississippi Code of 1972, authorizing the holder to engage in the business of a retailer of light wine or beer.

(g) **Caterer's permit.** A caterer's permit shall permit the purchase of alcoholic beverages by a person engaging in business as a caterer and the resale of alcoholic beverages by such person in conjunction with such catering business. No person shall qualify as a caterer unless forty percent (40%) or more of the revenue derived from such catering business shall be from the serving of prepared food and not from the sale of alcoholic beverages and unless such person has obtained a permit for such business from the Department of Health. A caterer's permit shall not authorize the sale of alcoholic beverages on the premises of the person engaging in business as a caterer; however, the holder of an on-premises retailer's permit may hold a caterer's permit. When the holder of an on-premises retailer's permit or an affiliated entity of the holder also holds a caterer's permit, the caterer's permit shall not authorize the service of alcoholic beverages on a consistent, recurring basis at a separate, fixed location owned or operated by the caterer, on-premises retailer or affiliated entity and an on-premises retailer's permit shall be required for the separate location. All sales of alcoholic beverages by holders of a caterer's permit shall be made at the location being catered by the caterer, and, except as otherwise provided in subsection (5) of this section, such sales may be made only for consumption at the catered location. The location being catered may be anywhere within a county or judicial district that has voted to come out from under the dry laws or in which the sale and distribution of alcoholic beverages is otherwise authorized by law. Such sales shall be made pursuant to any other conditions and restrictions which apply to sales made by on-premises retail permittees. The holder of a caterer's permit or his employees shall remain at the catered location as long as alcoholic beverages are being sold pursuant to the permit issued under this paragraph (g), and the permittee shall have at the location the identification card issued by the Alcoholic Beverage Control Division of the department. No unsold alcoholic beverages may be left at the catered location by the permittee upon the conclusion of his business at that location. Appropriate law enforcement officers and Alcoholic Beverage Control Division personnel may enter a catered location on private property in order to enforce laws governing the sale or serving of alcoholic beverages.

(h) **Research permit.** A research permit shall authorize the holder thereof to operate a research facility for the professional research of alcoholic beverages. Such permit shall authorize the holder of the permit to import and purchase limited amounts of alcoholic beverages from the department or from importers, wineries and distillers of alcoholic beverages for professional research.

(i) **Alcohol processing permit.** An alcohol processing permit shall authorize the holder thereof to purchase, transport and possess alcoholic

beverages for the exclusive use in cooking, processing or manufacturing products which contain alcoholic beverages as an integral ingredient. An alcohol processing permit shall not authorize the sale of alcoholic beverages on the premises of the person engaging in the business of cooking, processing or manufacturing products which contain alcoholic beverages. The amounts of alcoholic beverages allowed under an alcohol processing permit shall be set by the department.

(j) **Hospitality cart permit.** A hospitality cart permit shall authorize the sale of alcoholic beverages from a mobile cart on a golf course that is the holder of an on-premises retailer's permit. The alcoholic beverages sold from the cart must be consumed within the boundaries of the golf course.

(k) **Special service permit.** A special service permit shall authorize the holder to sell commercially sealed alcoholic beverages to the operator of a commercial or private aircraft for en route consumption only by passengers. A special service permit shall be issued only to a fixed-base operator who contracts with an airport facility to provide fueling and other associated services to commercial and private aircraft.

(*l*) **Merchant permit.** Except as otherwise provided in subsection (5) of this section, a merchant permit shall be issued only to the owner of a spa facility, an art studio or gallery, or a cooking school, and shall authorize the holder to serve complimentary by the glass wine only, including native wine, at the holder's spa facility, art studio or gallery, or cooking school. A merchant permit holder shall obtain all wine from the holder of a package retailer's permit.

(m) **Temporary alcoholic beverages charitable auction permit.** A temporary permit, not to exceed five (5) days, may be issued to a qualifying charitable nonprofit organization that is exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code of 1986. The permit shall authorize the holder to sell alcoholic beverages for the limited purpose of raising funds for the organization during a live or silent auction that is conducted by the organization and that meets the following requirements: (i) the auction is conducted in an area of the state where the sale of alcoholic beverages is authorized; (ii) if the auction is conducted on the premises of an on-premises retailer's permit holder, then the alcoholic beverages to be auctioned must be stored separately from the alcoholic beverages sold, stored or served on the premises, must be removed from the premises immediately following the auction, and may not be consumed on the premises; (iii) the permit holder may not conduct more than two (2) auctions during a calendar year; (iv) the permit holder may not pay a commission or promotional fee to any person to arrange or conduct the auction.

(n) **Event venue retailer's permit.** An event venue retailer's permit shall authorize the holder thereof to purchase and resell alcoholic beverages, including native wines and native spirits, for consumption on the premises during legal hours during events held on the licensed premises if food is being served at the event by a caterer who is not affiliated with or related to the permittee. The caterer must serve at least three (3) entrees. The permit

may only be issued for venues that can accommodate two hundred (200) persons or more. The number of persons a venue may accommodate shall be determined by the local fire department and such determination shall be provided in writing and submitted along with all other documents required to be provided for an on-premises retailer's permit. The permittee must derive the majority of its revenue from event-related fees, including, but not limited to, admission fees or ticket sales for live entertainment in the building. "Event-related fees" do not include alcohol, beer or light wine sales or any fee which may be construed to cover the cost of alcohol, beer or light wine. This determination shall be made on a per event basis. An event may not last longer than two (2) consecutive days per week.

(o) **Temporary theatre permit.** A temporary theatre permit, not to exceed five (5) days, may be issued to a charitable nonprofit organization that is exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code and owns or operates a theatre facility that features plays and other theatrical performances and productions. Except as otherwise provided in subsection (5) of this section, the permit shall authorize the holder to sell alcoholic beverages, including native wines and native spirits, to patrons of the theatre during performances and productions at the theatre facility for consumption during such performances and productions on the premises of the facility described in the permit. A temporary theatre permit holder shall obtain all alcoholic beverages from package retailers located in the county in which the permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary theatre permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages.

(p) **Charter ship operator's permit.** Subject to the provisions of this paragraph (p), a charter ship operator's permit shall authorize the holder thereof and its employees to serve, monitor, store and otherwise control the serving and availability of alcoholic beverages to customers of the permit holder during private charters under contract provided by the permit holder. A charter ship operator's permit shall authorize such action by the permit holder and its employees only as to alcoholic beverages brought onto the permit holder's ship by customers of the permit holder as part of such a private charter. All such alcoholic beverages must be removed from the charter ship at the conclusion of each private charter. A charter ship operator's permit shall not authorize the permit holder to sell, charge for or otherwise supply alcoholic beverages to customers, except as authorized in this paragraph (p). For the purposes of this paragraph (p), "charter ship operator" means a common carrier that (i) is certified to carry at least one hundred fifty (150) passengers and/or provide overnight accommodations for at least fifty (50) passengers, (ii) operates only in the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, and (iii) provides charters under contract for tours and trips in such waters.

(q) **Distillery retailer's permit.** The holder of a Class 1 manufacturer's permit may obtain a distillery retailer's permit. A distillery retailer's permit shall authorize the holder thereof to sell at retail alcoholic beverages to consumers for on-premises consumption, or to consumers by the sealed and unopened bottle from a retail location at the distillery for off-premises consumption. The holder may only sell product manufactured by the manufacturer at the distillery described in the permit. However, when selling to consumers for on-premises consumption, a holder of a distillery retailer's permit may add other beverages, alcoholic or not, so long as the total volume of other beverage components containing alcohol does not exceed twenty percent (20%). Hours of sale shall be the same as those authorized for on-premises permittees in the city or county in which the distillery retailer is located.

The holder shall not sell at retail more than ten percent (10%) of the alcoholic beverages produced annually at its distillery. The holder shall not make retail sales of more than two and twenty-five one-hundredths (2.25) liters, in the aggregate, of the alcoholic beverages produced at its distillery to any one (1) individual for consumption off the premises of the distillery within a twenty-four-hour period. The hours of sale shall be the same as those hours for package retailers under this article. The holder of a distillery retailer's permit is not required to purchase the alcoholic beverages authorized to be sold by this paragraph from the department's liquor distribution warehouse; however, if the holder does not purchase the alcoholic beverages from the department's liquor distribution warehouse, the holder shall pay to the department all taxes, fees and surcharges on the alcoholic beverages that are imposed upon the sale of alcoholic beverages shipped by the department or its warehouse operator. In addition to alcoholic beverages, the holder of a distillery retailer's permit may sell at retail promotional products from the same retail location, including shirts, hats, glasses, and other promotional products customarily sold by alcoholic beverage manufacturers.

(r) **Festival Wine Permit.** Any wine manufacturer or native wine producer permitted by Mississippi or any other state is eligible to obtain a Festival Wine Permit. This permit authorizes the entity to transport product manufactured by it to festivals held within the State of Mississippi and sell sealed, unopened bottles to festival participants. The holder of this permit may provide samples at no charge to participants. "Festival" means any event at which three (3) or more vendors are present at a location for the sale or distribution of goods. The holder of a Festival Wine Permit is not required to purchase the alcoholic beverages authorized to be sold by this paragraph from the department's liquor distribution warehouse. However, if the holder does not purchase the alcoholic beverages from the department's liquor distribution warehouse, the holder of this permit shall pay to the department all taxes, fees and surcharges on the alcoholic beverages sold at such festivals that are imposed upon the sale of alcoholic beverages shipped by the Alcoholic Beverage Control Division of the Department of Revenue. Additionally, the entity shall file all applicable reports and returns as

prescribed by the department. This permit is issued per festival and provides authority to sell for two (2) consecutive days during the hours authorized for on-premises permittees' sales in that county or city. The holder of the permit shall be required to maintain all requirements set by Local Option Law for the service and sale of alcoholic beverages. This permit may be issued to entities participating in festivals at which a Class 1 temporary permit is in effect.

This paragraph (r) shall stand repealed from and after July 1, 2023.

(s) **Charter vessel operator's permit.** Subject to the provisions of this paragraph (s), a charter vessel operator's permit shall authorize the holder thereof and its employees to sell and serve alcoholic beverages to passengers of the permit holder during public tours, historical tours, ecological tours and sunset cruises provided by the permit holder. The permit shall authorize the holder to only sell alcoholic beverages, including native wines, to passengers of the charter vessel operator during public tours, historical tours, ecological tours and sunset cruises provided by the permit holder aboard the charter vessel operator for consumption during such tours and cruises on the premises of the charter vessel operator described in the permit. For the purposes of this paragraph (s), "charter vessel operator" means a common carrier that (i) is certified to carry at least forty-nine (49) passengers, (ii) operates only in the waters within the State of Mississippi, which lie south of Interstate 10 in the three (3) most southern counties in the State of Mississippi, and lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, extending not further than one (1) mile south of such counties, and (iii) provides vessel services for tours and cruises in such waters as provided in this paragraph (s).

(t) **Native spirit retailer's permit.** Except as otherwise provided in subsection (5) of this section, a native spirit retailer's permit shall be issued only to a holder of a Class 4 manufacturer's permit, and shall authorize the holder thereof to make retail sales of native spirits to consumers for on-premises consumption or to consumers in originally sealed and unopened containers at an establishment located on the premises of or in the immediate vicinity of a native distillery. When selling to consumers for on-premises consumption, a holder of a native spirit retailer's permit may add to the native spirit alcoholic beverages not produced on the premises, so long as the total volume of foreign beverage components does not exceed twenty percent (20%) of the mixed beverage. Hours of sale shall be the same as those authorized for on-premises permittees in the city or county in which the native spirit retailer is located.

(u) **Delivery service permit.** Any individual, limited liability company, corporation or partnership registered to do business in this state is eligible to obtain a delivery service permit. Subject to the provisions of Section 67-1-51.1, this permit authorizes the permittee, or its employee or an independent contractor acting on its behalf, to deliver alcoholic beverages, beer, light wine and light spirit product from a licensed retailer to a person

in this state who is at least twenty-one (21) years of age for the individual's use and not for resale. This permit does not authorize the delivery of alcoholic beverages, beer, light wine or light spirit product to the premises of a location with a permit for the manufacture, distribution or retail sale of alcoholic beverages, beer, light wine or light spirit product. The holder of a package retailer's permit or an on-premises retailer's permit under Section 67-1-51 or of a beer, light wine and light spirit product permit under Section 67-3-19 is authorized to apply for a delivery service permit as a privilege separate from its existing retail permit.

(v) **Food truck permit.** A food truck permit shall authorize the holder of an on-premises retailer's permit to use a food truck to sell alcoholic beverages off its premises to guests who must consume the beverages in open containers. For the purposes of this paragraph (v), "food truck" means a fully encased food service establishment on a motor vehicle or on a trailer that a motor vehicle pulls to transport, and from which a vendor, standing within the frame of the establishment, prepares, cooks, sells and serves food for immediate human consumption. The term "food truck" does not include a food cart that is not motorized. Food trucks shall maintain such distance requirements from schools, churches, kindergartens and funeral homes as are required for on-premises retailer's permittees under this article, and all sales must be made within a valid leisure and recreation district established under Section 67-1-101. Food trucks cannot sell or serve alcoholic beverages unless also offering food prepared and cooked within the food truck, and permittees must maintain a twenty-five percent (25%) food sale revenue requirement based on the food sold from the food truck alone. The hours allowed for sale shall be the same as those for on-premises retailer's permittees in the location. This permit will not be required for the holder of a caterer's permit issued under this article to cater an event as allowed by law. Permittees must provide notice of not less than forty-eight (48) hours to the department of each location at which alcoholic beverages will be sold.

(2) Except as otherwise provided in subsection (4) of this section, retail permittees may hold more than one (1) retail permit, at the discretion of the department.

(3)(a) Except as otherwise provided in this subsection, no authority shall be granted to any person to manufacture, sell or store for sale any intoxicating liquor as specified in this article within four hundred (400) feet of any church, school, kindergarten or funeral home. However, within an area zoned commercial or business, such minimum distance shall be not less than one hundred (100) feet.

(b) A church or funeral home may waive the distance restrictions imposed in this subsection in favor of allowing issuance by the department of a permit, pursuant to subsection (1) of this section, to authorize activity relating to the manufacturing, sale or storage of alcoholic beverages which would otherwise be prohibited under the minimum distance criterion. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer of the church or funeral home having the authority to

execute such a waiver, and the waiver shall be filed with and verified by the department before becoming effective.

(c) The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a bed and breakfast inn listed in the National Register of Historic Places or to the sale or storage of alcoholic beverages in a historic district that is listed in the National Register of Historic Places, is a qualified resort area and is located in a municipality having a population greater than one hundred thousand (100,000) according to the latest federal decennial census.

(d) The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a qualified resort area as defined in Section 67-1-5(o)(iii)32.

(e) The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a licensed premises in a building formerly owned by a municipality and formerly leased by the municipality to a municipal school district and used by the municipal school district as a district bus shop facility.

(f) The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a licensed premises in a building consisting of at least five thousand (5,000) square feet and located approximately six hundred (600) feet from the intersection of Mississippi Highway 15 and Mississippi Highway 4.

(g) The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a licensed premises in a building located at or near the intersection of Ward and Tate Streets and adjacent properties in the City of Senatobia, Mississippi.

(h) The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a theatre facility that features plays and other theatrical performances and productions and (i) is capable of seating more than seven hundred fifty (750) people, (ii) is owned by a municipality which has a population greater than ten thousand (10,000) according to the latest federal decennial census, (iii) was constructed prior to 1930, (iv) is on the National Register of Historic Places, and (v) is located in a historic district.

(4) No person, either individually or as a member of a firm, partnership, limited liability company or association, or as a stockholder, officer or director in a corporation, shall own or control any interest in more than one (1) package retailer's permit, nor shall such person's spouse, if living in the same household of such person, any relative of such person, if living in the same household of such person, or any other person living in the same household with such person own any interest in any other package retailer's permit.

(5)(a) In addition to any other authority granted under this section, the holder of a permit issued under subsection (1)(c), (e), (f), (g), (*l*), (n) and/or (o) of this section may sell or otherwise provide alcoholic beverages and/or wine to a patron of the permit holder in the manner authorized in the permit and the patron may remove an open glass, cup or other container of the alcoholic

beverage and/or wine from the licensed premises and may possess and consume the alcoholic beverage or wine outside of the licensed premises if: (i) the licensed premises is located within a leisure and recreation district created under Section 67-1-101 and (ii) the patron remains within the boundaries of the leisure and recreation district while in possession of the alcoholic beverage or wine.

(b) Nothing in this subsection shall be construed to allow a person to bring any alcoholic beverages into a permitted premises except to the extent otherwise authorized by this article.

HISTORY: Codes, 1942, §§ 10265-18, 10265-19, 10265-26; Laws, 1966, ch. 540, §§ 18, 19, 26; Laws, 1976, ch. 467, § 18; Laws, 1988, ch. 302, § 1; Laws, 1988, ch. 383, § 2; Laws, 1989, ch. 484, § 1; Laws, 1992, ch. 574, § 2; Laws, 1994, ch. 538, § 4; Laws, 1996, ch. 417, § 2; Laws, 1997, ch. 487, § 1; Laws, 2000, ch. 307, § 1; Laws, 2006, ch. 529, § 5; Laws, 2007, ch. 462, § 8; Laws, 2008, 1st Ex Sess, ch. 48, § 1; Laws, 2009, ch. 465, § 2; Laws, 2012, ch. 566, § 2; Laws, 2014, ch. 516, § 1; Laws, 2014, ch. 527, § 1; Laws, 2015, ch. 462, § 1; Laws, 2016, ch. 471, § 2, eff from and after July 1, 2016; Laws, 2018, ch. 382, § 1, eff from and after July 1, 2018; Laws, 2018, ch. 453, § 1, eff from and after passage (approved April 13, 2018); Laws, 2020, ch. 314, § 39, eff from and after passage (approved June 18, 2020); Laws, 2020, ch. 422, § 4, eff from and after January 1, 2021§ 4; Laws, 2020, ch. 423, § 6, eff from and after July 1, 2020; Laws, 2020, ch. 429, § 1, eff from and after July 1, 2020; Laws, 2020, ch. 458, § 6, eff from and after July 1, 2020; Laws, 2021, ch. 357, § 1, eff from and after July 1, 2021; Laws, 2021, ch. 388, § 13, eff from and after July 1, 2021; Laws, 2021, ch. 442, § 2, eff from and after July 1, 2021; Laws, 2021, ch. 449, § 2, eff from and after July 1, 2021; Laws, 2021, ch. 450, § 10, eff from and after July 1, 2021; Laws, 2021, ch. 454, § 1, eff from and after July 1, 2021; Laws, 2022, ch. 406, § 1, eff from and after July 1, 2022; Laws, 2022, ch. 483, § 17, eff from and after July 1, 2022.

Joint Legislative Committee Note — Section 1 of Chapter 406, Laws of 2022, effective from and after July 1, 2022, amended this section. Section 17 of Chapter 483, Laws of 2022, effective from and after July 1, 2022, also amended this section. As set out above, this section reflects the language of Section 17 of Chapter 483, Laws of 2022, which contains language that specifically provides that it supersedes § 67-1-51 as amended by Chapter 406, Laws of 2022.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" throughout the section to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

Amendment Notes — The first 2022 amendment (ch. 406), added (1)(v); and added (3)(h).

The second 2022 amendment (ch. 483), in (1), substituted "department or its warehouse operator" for "Alcoholic Beverage Control Division of the Department of Revenue" in the second paragraph of (q), and added (v); and in (3), substituted "located at or near the intersection of Ward and Tate Streets and adjacent properties" for "located at the southeast corner of Ward and Tate Streets" in (g), and added (h).

§ 67-1-51.1. Delivery service permit; contract with holder of package retailer's permit, on-premises retailer's permit, or beer, light wine and light spirit product retail permit for intrastate delivery authorized; delivery without contract under certain circumstances; delivery requirements; application process; enforcement.

(1) The holder of a delivery service permit under Section 67-1-51:

(a) May contract with the holder of a package retailer's permit or an on-premises retailer's permit under Section 67-1-51 or the holder of a beer, light wine and light spirit product retail permit under Section 67-3-19 for the purpose of intrastate delivery of alcoholic beverages or beer, light wine and light spirit product, as authorized to be sold under the respective permits;

(b) May deliver alcoholic beverages or beer, light wine and light spirit product without a delivery contract, if the permittee holds a package retailer's permit or an on-premises retailer's permit under Section 67-1-51 or a beer, light wine and light spirit product retail permit under Section 67-3-19, respectively;

(c) May use its own employees or independent contractors who are at least twenty-one (21) years of age to deliver such alcoholic beverages, beer, light wine or light spirit product under this section, provided all delivery agents are trained and certified consistent with the training program submitted to the division as required by subsection (2)(d) of this section. If independent contractors are used, the delivery service permittee must enter into a contract with the retailer as required by subsection (2)(c) of this section;

(d) May facilitate orders by telephone, Internet or other electronic means for the sale and delivery of alcoholic beverages, beer, light wine or light spirit product under this section. The full amount of each order must be handled in a manner that gives the retail permittee control over the ultimate receipt of payment from the consumer. The retail permittee shall remain responsible for the proper remittance of all applicable taxes on the sale of the product;

(e) May deliver only sealed containers of alcoholic beverages, beer, light wine or light spirit product to an individual in Mississippi;

(f) Shall obtain from the customer a confirmation that he or she is at least twenty-one (21) years of age at the time the order is placed;

(g) Shall place a stamp, print or label on the outside of the sealed package to indicate that the sealed package contains alcoholic beverages, beer, light wine or light spirit product;

(h) Shall require the recipient, at the time of delivery, to provide valid photo identification verifying he or she is at least twenty-one (21) years of age and to sign for the delivery;

(i) Shall possess identification scanning software technology or a state-of-the-art alternative at the point of delivery to verify the recipient is at least twenty-one (21) years of age and to collect the recipient's name and date of

birth. Records relating to this verification shall be maintained for at least ninety (90) days and shall be subject to review by the division;

(j) Shall return all alcoholic beverages, beer, light wine or light spirit product to the retailer if the recipient is under the age of twenty-one (21) years, appears intoxicated, fails to provide proof of identification, fails or refuses to sign for delivery, fails to complete the identification verification process or declines to accept delivery, or if any circumstances in the delivery environment indicate illegal conduct, overconsumption of alcohol, or an otherwise unsafe environment for the consumption of alcohol;

(k) May not deliver any alcoholic beverage, beer, light wine or light spirit product to any person located within a jurisdiction that is dry for that product, as provided by the division's wet-dry map;

(*l*) May not deliver any alcoholic beverage, beer, light wine or light spirit product in a jurisdiction during times prohibited for lawful sale in that jurisdiction;

(m) May not deliver any alcoholic beverage, beer, light wine or light spirit product more than thirty (30) miles from the retailer's licensed premises;

(n) Shall permit the division to perform an audit of the licensee's records upon request and with sufficient notification; and

(o) Shall be deemed to have consented to the jurisdiction of the division or any law enforcement agency and the Mississippi courts concerning enforcement of this section and any related laws or rules.

(2) In order to receive a delivery service permit, an applicant shall:

(a) File an application with the division;

(b) Pay the privilege license tax of Five Hundred Dollars ($500.00) as provided in Section 27-71-5;

(c) Provide to the division a sample contract that the applicant intends to enter into with a retailer for the delivery of alcoholic beverages, beer, light wine or light spirit product, unless the applicant is the retailer;

(d) Submit to the division an outline of an internal or external training and certification program for delivery service personnel that addresses topics such as identifying underage persons, intoxicated persons, and fake or altered identification;

(e) Provide an attestation that the applicant is at least twenty-one (21) years of age and has not been convicted of a felony in any state or federal courts;

(f) Shall provide proof of a general liability insurance policy in an amount not less than One Million Dollars ($1,000,000.00) per occurrence; and

(g) Shall be properly registered to conduct business in Mississippi.

(3) Nothing in this section shall be construed to require a technology services company to obtain a delivery service permit if the company does not employ or contract with delivery agents but merely provides software or a digital network application that connects consumers and licensed retailers for the delivery of alcoholic beverages from the licensed retailer. However, the act

of connecting consumers to licensed retailers shall serve to grant jurisdiction to the State of Mississippi.

(4) The division may enforce the requirements of this section by the same administrative proceedings that apply to other alcoholic beverage licenses or permits, including, without limitation, any disciplinary action applicable to the package retailer's permittee, on-premises retailer's permittee, retail permittee for beer, light wine or light spirit product, or delivery service permittee resulting from any unlawful sale to a minor.

(5) The division may enforce the requirements of this section against the package retailer's permittee, on-premises retailer's permittee, retail permittee for beer, light wine or light spirit product, or delivery service permittee, and any employee or independent contractor of such permittee. If a package retailer permittee, an on-premises retailer's permittee, or a retail permittee for beer, light wine or light spirit product is also a delivery permittee, a violation of alcohol law by its employee or independent contractor during delivery will subject both the retailer permit and the delivery service permit to disciplinary action for the violation. Delivery to a minor shall be treated as furnishing to a minor and shall result in any applicable disciplinary action.

(6) Nothing in this section shall be construed to limit or otherwise diminish the ability of the division to enforce the provisions of Chapters 1 and 3, Title 67, Mississippi Code of 1972, with respect to the liability of any package retailer's permittee, on-premises retailer's permittee, retail permittee for beer, light wine or light spirit product, or delivery service permittee engaging in delivery activity authorized by this section.

(7) Nothing in this section shall be construed to authorize the direct shipment of alcoholic beverages, light wine, beer or light spirit product from any manufacturer or distributor holding a permit under this article, or under Title 67, Chapter 3, Mississippi Code of 1972, to consumers in this state.

HISTORY: Laws, 2021, ch. 442, § 1, eff from and after July 1, 2021.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in subsection (7) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-57. Qualification of applicants.

Before a permit is issued the department shall satisfy itself:

(a) That the applicant, if an individual, or if a partnership, each of the members of the partnership, or if a corporation, each of its principal officers and directors, or if a limited liability company, each member of the limited liability company, is of good moral character and, in addition, enjoys a reputation of being a peaceable, law-abiding citizen of the community in which he resides, and is generally fit for the trust to be reposed in him, is not less than twenty-one (21) years of age, and has not been convicted of a felony in any state or federal court.

(b) That, except in the case of an application for a solicitor's permit, the applicant is the true and actual owner of the business for which the permit is desired, and that he intends to carry on the business authorized for himself and not as the agent of any other person, and that he intends to superintend in person the management of the business or that he will designate a manager to manage the business for him. All managers must be approved by the department prior to completing any managerial tasks on behalf of the permittee and must possess all of the qualifications required of a permittee; however, a felony conviction, other than a crime of violence, does not automatically disqualify a person from being approved as a manager if the person was released from incarceration at least three (3) years prior to application for approval as a manager. A felony conviction, other than a crime of violence, may be considered by the department in determining whether all other qualifications are met.

(c) That the applicant for a package retailer's permit, if an individual, is a resident of the State of Mississippi. If the applicant is a partnership, each member of the partnership must be a resident of the state. If the applicant is a limited liability company, each member of the limited liability company must be a resident of the state. If the applicant is a corporation, the designated manager of the corporation must be a resident of the state.

(d) That the place for which the permit is to be issued is an appropriate one considering the character of the premises and the surrounding neighborhood.

(e) That the place for which the permit is to be issued is within the corporate limits of an incorporated municipality or qualified resort area or club which comes within the provisions of this article.

(f) That the applicant is not indebted to the state for any taxes, fees or payment of penalties imposed by any law of the State of Mississippi or by any rule or regulation of the commission.

(g) That the applicant is not in the habit of using alcoholic beverages to excess and is not physically or mentally incapacitated, and that the applicant has the ability to read and write the English language.

(h) That the commission does not believe and has no reason to believe that the applicant will sell or knowingly permit any agent, servant or employee to unlawfully sell liquor in a dry area or in any other manner contrary to law.

(i) That the applicant is not residentially domiciled with any person whose permit or license has been cancelled for cause within the twelve (12) months next preceding the date of the present application for a permit.

(j) That the commission has not, in the exercise of its discretion which is reserved and preserved to it, refused to grant permits under the restrictions of this section, as well as under any other pertinent provision of this article.

(k) That there are not sufficient legal reasons to deny a permit on the ground that the premises for which the permit is sought has previously been operated, used or frequented for any purpose or in any manner that is lewd,

immoral or offensive to public decency. In the granting or withholding of any permit to sell alcoholic beverages at retail, the commission in forming its conclusions may give consideration to any recommendations made in writing by the district or county attorney or county, circuit or chancery judge of the county, or the sheriff of the county, or the mayor or chief of police of an incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the commission.

(*l*) That the applicant and the applicant's key employees, as determined by the commission, do not have a disqualifying criminal record. In order to obtain a criminal record history check, the applicant shall submit to the commission a set of fingerprints from any local law enforcement agency for each person for whom the records check is required. The commission shall forward the fingerprints to the Mississippi Department of Public Safety. If no disqualifying record is identified at the state level, the Department of Public Safety shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. Costs for processing the set or sets of fingerprints shall be borne by the applicant. The commission shall not deny employment to an employee of the applicant prior to the identification of a disqualifying record or other disqualifying information.

HISTORY: Codes, 1942, § 10265-23; Laws, 1966, ch. 540, § 23; Laws, 1968, ch. 591, § 1; Laws, 1993, ch. 314, § 1; Laws, 2002, ch. 494, § 1, Laws, 2006, ch. 529, § 10; Laws, 2016, ch. 426, § 1, eff from and after July 1, 2016.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in paragraphs (e) and (j) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-63. Permit renewals; continued operation after denial of renewal under certain circumstances; appeals.

(1) Any permittee may renew his permit at the expiration thereof for an additional term of one (1) year, provided he is then qualified to receive a permit and the premises for which the renewal is sought are suitable for such purposes. The renewal privilege herein provided for shall not be construed as a vested right. No "on-premises" retailer's permit shall be renewed at the expiration thereof for any "hotel" or "restaurant" under this article unless the commission is satisfied that the holder thereof is continuing to meet the requirements of a hotel or restaurant, as defined in Section 67-1-5.

(2) When an application for the renewal of a permit has been denied by the department for a reason other than for being incomplete, for failure to pay any applicable license privilege taxes or fees required for renewal or for failure to post a bond, cash or securities as required by Section 27-71-21, the permittee shall be allowed to continue to operate under the permit for which renewal was denied until the last of the following dates:

(a) The date on which the permit expires;

(b) The date on which the time period for filing an appeal of the denial of the renewal to the Board of Tax Appeals expires;

(c) If the denial is timely appealed to the Board of Tax Appeals and this appeal is later withdrawn, the date on which the withdrawal of appeal occurs; or

(d) If the denial is timely appealed to the Board of Tax Appeals and an order is entered by the Board of Tax Appeals affirming the denial of the renewal, the date on which the permittee receives notice of the decision of the Board of Tax Appeals affirming the denial. Refusal to accept delivery of such notice or the posting of the final decision of the Board of Tax Appeals at the permitted place of business shall constitute receipt of notice by the permittee of this decision.

(3) If the denial of an application for renewal of a permit is appealed to the Board of Tax Appeals and the board reverses the denial of the application for renewal, the department shall renew and issue the permit from its last expiration date.

(4) The issuance and/or renewal of a permit based on the decision of the Board of Tax Appeals shall not bar or estop the department from appealing this decision of the Board of Tax Appeals to chancery court under Section 67-1-39. Any subsequent renewal of this permit while an appeal by the department from the decision of the Board of Tax Appeals is pending shall be subject to the final decision of the court on this appeal. If in such an appeal by the department, a court enters a final decision and/or order reversing the decision of the board and affirming the denial of the application for a permit or the application for renewal of a permit, the permit, even if subsequently renewed, shall be deemed denied and not authorize the permittee to sell alcoholic beverages under that permit after the date on which the decision and/or order of the court affirming the denial of the permit becomes final and not subject to any further appeal.

HISTORY: Codes, 1942, § 10265-22; Laws, 1966, ch. 540, § 22; Laws, 1986, ch. 486, § 1; Laws, 2009, ch. 492, § 133, eff from and after July 1, 2010.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in subsection (1) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-67. Transfer of permit.

No permit shall be transferred by the permittee to any other person or any other place except with the written consent of the commission upon a regular application therefor in writing and upon consideration thereof as provided in this article for an original application for a permit. The commission shall not approve the transfer of the permit of any person against whom there is pending in the courts or before the commission any charge of keeping a disorderly

house, or of violating this article or the laws against gambling in this state or against whom there is pending any proceedings for the revocation, suspension or cancellation of the permit.

HISTORY: Codes, 1942, § 10265-24; Laws, 1966, ch. 540, § 24, eff from and after July 1, 1966.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in the section to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-69. Permittees must comply with federal statutes.

No person holding any permit issued under the provisions of this article shall engage in any business or activity authorized by such permit unless such person shall qualify so to do by complying with all statutes of the United States of America, and all regulations issued pursuant thereto, which are applicable or shall pertain to such business or activity, and shall continue to be so qualified at all times while engaging in such business or activity. As a prerequisite to the issuance of any permit under this article, the applicant shall first obtain the required federal occupational stamp for the type of business for which the permit has been approved by the commission.

HISTORY: Codes, 1942, § 10265-29; Laws, 1966, ch. 540, § 29, eff from and after July 1, 1966.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in the section to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-71. Suspension and revocation of permits; reasonable notice of charges for which suspension or revocation is sought; hearing before Board of Tax Appeals; applicability of paragraph (i) to games or lotteries authorized by Mississippi lottery law.

The department may revoke or suspend any permit issued by it for a violation by the permittee of any of the provisions of this article or of the regulations promulgated under it by the department.

Permits must be revoked or suspended for the following causes:

(a) Conviction of the permittee for the violation of any of the provisions of this article;

(b) Willful failure or refusal by any permittee to comply with any of the provisions of this article or of any rule or regulation adopted pursuant thereto;

(c) The making of any materially false statement in any application for a permit;

(d) Conviction of one or more of the clerks, agents or employees of the permittee, of any violation of this article upon the premises covered by such permit within a period of time as designated by the rules or regulations of the department;

(e) The possession on the premises of any retail permittee of any alcoholic beverages upon which the tax has not been paid;

(f) The willful failure of any permittee to keep the records or make the reports required by this article, or to allow an inspection of such records by any duly authorized person;

(g) The suspension or revocation of a permit issued to the permittee by the federal government, or conviction of violating any federal law relating to alcoholic beverages;

(h) The failure to furnish any bond required by Section 27-71-21 within fifteen (15) days after notice from the department; and

(i) The conducting of any form of illegal gambling on the premises of any permittee or on any premises connected therewith or the presence on any such premises of any gambling device with the knowledge of the permittee.

The provisions of paragraph (i) of this section shall not apply to gambling or the presence of any gambling devices, with knowledge of the permittee, on board a cruise vessel in the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, or on any vessel as defined in Section 27-109-1 whenever such vessel is on the Mississippi River or navigable waters within any county bordering on the Mississippi River. The department may, in its discretion, issue on-premises retailer's permits to a common carrier of the nature described in this paragraph.

The provisions of paragraph (i) of this section shall not apply to the operation of any game or lottery authorized by Chapter 115, Title 27.

No permit shall be suspended or revoked until after the permittee has been provided reasonable notice of the charges against him for which suspension or revocation is sought and the opportunity to a hearing before the Board of Tax Appeals to contest such charges and the suspension or revocation proposed. Opportunity to a hearing is provided without an actual hearing if the permittee, after receiving reasonable notice, including notice of his right to a hearing, fails to timely request a hearing. The permittee may also at any time waive his rights to reasonable notice and/or to the opportunity to a hearing by agreeing to a suspension or revocation offered by the department. Notwithstanding the requirement above that a permit may not be suspended without notice and opportunity to a hearing, sales of alcoholic beverages by a permittee under a permit for which the bond under Section 27-71-21 has been cancelled shall be suspended from and after issuance of the notice provided in paragraph (h) above and shall continue to be suspended until the bond is reinstated, a new bond is posted or sufficient cash or securities as provided under Section 27-71-21 are deposited with the State Treasurer for this permit.

In addition to the causes specified in this section and other provisions of this article, the department shall be authorized to suspend the permit of any permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this article, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

HISTORY: Codes, 1942, § 10265-28; Laws, 1966, ch. 540, § 28; Laws, 1989, ch. 310, § 1; Laws, 1989, ch. 480, § 8; Laws, 1990, ch. 449, § 2; Laws, 1990, ch. 573, § 6; Laws, 1990 Ex Sess, ch. 45 § 146; Laws, 1992, ch. 459, § 2; Laws, 1996, ch. 507, § 17; Laws, 2009, ch. 492, § 134; Laws, 2010, ch. 388, § 13, eff from and after July 1, 2010; Laws, 2018, 1st Ex Sess, ch. 2, § 52, eff from and after September 1, 2018.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" throughout the section to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-72. Appeal to Board of Tax Appeals from certain actions of the Department of Revenue; notice of hearing; order.

(1) Except as otherwise provided in this article, any applicant or holder of a permit issued under this article which is aggrieved by an action of the Department of Revenue to deny his application for a permit, to deny the renewal of his permit or to revoke or suspend his permit shall be allowed to appeal to the Board of Tax Appeals from this action. This appeal is to be filed by the aggrieved person with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that person received notice of the action of the department being aggrieved. If the person aggrieved fails to appeal within this fifteen-day period, the action of the Department of Revenue shall take effect as set out in the notice. The Department of Revenue retains the authority to change at any time the action aggrieved to in an appeal under this subsection. The applicant or holder of any permit issued under this article may waive his right to notice and opportunity to a hearing as provided by this subsection and agree to the action being taken by the department. The inability of the Department of Revenue to issue or renew a permit due to an incomplete application or due to the failure of the applicant to pay the annual privilege taxes and fees provided by Section 27-71-5 and/or the failure of the applicant to post or deposit the bond, cash or securities as required by Section 27-71-21 shall not constitute a denial for purposes of this subsection.

(2) Any applicant for approval as a manager of an establishment operating under a permit issued under this article or who holds the designation of an approved manager of an establishment operating under a permit issued under this article and who is aggrieved by an action of the Department of Revenue to deny his application for approval as a manager or to revoke or suspend his designation as an approved manager shall be allowed to appeal to the Board of Tax Appeals from this action. This appeal is to be filed by the aggrieved person with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that person received notice of the action of the department being aggrieved. If the person aggrieved fails to appeal within this fifteen-day period, the action of the Department of Revenue shall take effect as set out in the notice. The Department of Revenue retains the authority to change at any time the action aggrieved to in an appeal under this subsection. The applicant or holder of an approved manager designation may waive his right to notice and opportunity to a hearing as provided by this subsection and agree to the action being taken by the department. The inability of the Department of Revenue to consider an application for approval of an applicant as a manager due to an incomplete application shall not constitute a denial of the application for purposes of this subsection.

(3) Any applicant for approval of an area or locality as a qualified resort area under this article who is aggrieved by the decision of the Department of Revenue to deny the qualified resort area as requested and any county or municipality wherein the proposed qualified resort area is located may appeal to the Board of Tax Appeals from such decision. This appeal is to be filed by the aggrieved applicant or by the affected county or municipality with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that the person or entity filing the appeal received notice of the decision of the Department of Revenue to deny the qualified resort area. If an appeal is not filed within this fifteen-day period, the decision of the Department of Revenue shall become final. The Department of Revenue retains the authority to change at any time the decision aggrieved to in an appeal under this subsection. The inability of the Department of Revenue to consider an application for the approval of an area or locality as a qualified resort area due to an incomplete application shall not constitute a denial of that application for purposes of this subsection.

(4) Any person, including any county or municipality in which the qualified resort area is located, who is aggrieved by the decision of the Department of Revenue to revoke the approval of an area or locality as a qualified resort area may appeal to the Board of Tax Appeals from such decision. This appeal is to be filed by the aggrieved person with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that the person or entity filing the appeal received notice of the decision of the department to revoke approval of the qualified resort area. At the discretion of the Department of Revenue, in addition to any other notice to be provided under this subsection,

the department may provide notice of its decision to revoke approval of the qualified resort area by publication in the same manner as provided by regulation when approval of a qualified resort area is sought. In regard to such publication, the fifteen-day period provided herein will begin on the date that notice is first published. If an appeal is not filed within this fifteen-day period, the decision of the Department of Revenue shall become final. The Department of Revenue retains the authority to change at any time the decision aggrieved to in an appeal under this subsection.

(5) Any person objecting to an application for the issuance or transfer of a permit, other than a temporary retailer's permit, issued under this article and who timely requests in writing a hearing on his objection shall be given a hearing before the Board of Tax Appeals unless the permit is denied by the Department of Revenue and an appeal is not taken by the applicant to the Board of Tax Appeals from that denial or the applicant withdraws his application. Any written request for a hearing on an objection must be filed with the Department of Revenue within fifteen (15) days from the first date of publication of the notice of such application under Section 67-1-53. If the department determines that the permit should be denied, notice will be provided to the applicant as set out in subsection (1) of this section, and if the applicant timely requests a hearing on the denial as provided by this subsection (5), the department will advise the Executive Director of the Board of Tax Appeals and the applicant of the written request for a hearing on an objection to the permit. The hearing on the objection to the permit and the hearing on the appeal by the applicant from the denial of the department of the application shall be consolidated and heard by the Board of Tax Appeals at the same time. If the department determines that the permit should be issued, the department will advise the applicant and the Executive Director of the Board of Tax Appeals of the timely written request for a hearing on an objection to the application and a hearing will be set before the Board of Tax Appeals on this objection. If prior to the hearing, either the person requesting the hearing withdraws his request or the applicant withdraws his application, the hearing will be cancelled and the objection proceedings before the Board of Tax Appeals on the application will be dismissed as moot. In the case of such withdrawals, the Board of Tax Appeals is authorized to assess to either or both parties any costs incurred by it prior to such withdrawal. The Department of Revenue retains authority to issue the permit to the applicant where the person objecting to the application withdraws his request for a hearing.

(6) Any person objecting to an application for approval by the Department of Revenue of a area or locality as a qualified resort area under this article and who timely requests in writing a hearing on his objection shall be given a hearing before the Board of Tax Appeals unless approval of the application is denied by the Department of Revenue and an appeal is not taken by the applicant or the county or municipality in which the proposed qualified resort area is located to the Board of Tax Appeals from that denial or the applicant withdraws his application. Any written request for a hearing on an objection must be filed with the Department of Revenue within fifteen (15) days from the

first date of publication of the notice of such application as provided by regulation. If the department determines that the application for approval of the proposed area or locality as a qualified resort area should be denied, the department will proceed with denial of such application as set out in subsection (3) of this section, and if the applicant or the county or municipality in which the proposed qualified resort area is located timely requests a hearing on the denial as provided by subsection (3) of this section, the department will advise the Executive Director of the Board of Tax Appeals and the applicant of the written request for a hearing on an objection to the application. The hearing on the objection to approval of the proposed qualified resort area and the hearing on the appeal from the denial of the department of the application for such approval shall be consolidated and heard by the Board of Tax Appeals at the same time. If the department determines that the proposed qualified resort area should be approved, the department will advise the applicant and the Executive Director of the Board of Tax Appeals of the timely written request for a hearing on an objection to the application and a hearing will be set before the Board of Tax Appeals on this objection. If prior to the hearing, either the person requesting the hearing withdraws his request or the applicant withdraws his application, the hearing will be cancelled and the objection proceedings before the Board of Tax Appeals on the application will be dismissed as moot. In the case of such withdrawals, the Board of Tax Appeals is authorized to assess to either or both parties any costs incurred by it prior to such withdrawal. The Department of Revenue retains authority to approve the proposed area or locality as a qualified resort area where the person objecting to the application withdraws his request for a hearing.

(7) Any person having an interest in any alcoholic beverages, light wine, beer, light spirit products or raw materials which the Department of Revenue intends to dispose of under Section 67-1-18 shall be given reasonable notice of this proposed disposal, and upon such notice, this person may request a hearing before the Board of Tax Appeals to establish his right or claim to this property. This request for a hearing shall be filed with the Board of Tax Appeals, with a copy sent to the Department of Revenue, within fifteen (15) days from the date of receipt of the notice provided above by the person filing the request. If a request is not received by the Board of Tax Appeals within this fifteen-day period, the department may order the property disposed of in accordance with Section 67-1-18.

(8) Upon receipt of a written request for hearing or appeal as set out above, the executive director shall schedule a hearing before the Board of Tax Appeals on this request or appeal. A notice of the hearing shall be mailed to all persons or entities having an interest in the matter being heard which shall always include the person or entity filing the request or appeal for which the hearing is being set, the applicant or holder of any permit, approved manager status or qualified resort area status in issue, any person who filed a written request for a hearing on an objection to any application in issue and the Department of Revenue. This notice shall provide the date, time and location of the hearing. Mailing to the attorney representing a person or entity in the

matter being heard shall be the same as mailing to the person or entity the attorney represents. Failure of the person or entity on whose request or appeal the matter was set for hearing to appear personally or through his designated representative at the hearing shall constitute an involuntary withdrawal of his request or appeal. Upon such withdrawal, the Board of Tax Appeals shall note on the record the failure of the person or entity to appear at the hearing and shall dismiss the request or appeal and remand the matter back to the Department of Revenue for appropriate action.

(9) At any hearing before the Board of Tax Appeals on an appeal or hearing request as set out above, two (2) members of the Board of Tax Appeals shall constitute a quorum. At the hearing, the Board of Tax Appeals shall try the issues presented according to law and the facts and pursuant to any guidelines established by regulation. The rules of evidence shall be relaxed at the hearing and the hearing shall be recorded by a court reporter. After reaching a decision on the issues presented, the Board of Tax Appeals shall enter an order setting forth its findings and decision in the matter. A copy of the order of the Board of Tax Appeals shall be mailed to the person or entity filing the request or appeal which was heard, the applicant or holder of any permit, approved manager status or qualified resort area status in issue, any person who filed a written request for a hearing on an objection to any application in issue and the Department of Revenue to notify them of the findings and decision of the Board of Tax Appeals.

HISTORY: Laws, 2009, ch. 492, § 135; Laws, 2010, ch. 388, § 14; Laws, 2015, ch. 438, § 3, eff from and after passage (approved Apr. 13, 2015); Laws, 2020, ch. 314, § 40, eff from and after passage (approved June 18, 2020).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in subsections (1), (2), (3), (5) and (6) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-75. Offenses by holder of package retailer's permit or by employee thereof; penalty.

If the holder of a package retailer's permit, or any employee thereof:

(a) Shall sell, offer for sale or permit to be sold in, on or about the premises covered by such permit any alcoholic beverages except in the original sealed and unopened packages; or

(b) Shall permit the drinking or consumption of any alcoholic beverages in, on or about the premises covered by such permit except as may be otherwise authorized by this article; or

(c) Shall sell, offer for sale or permit the sale in, on or about the premises of alcoholic beverages in any package or container containing less than fifty (50) milliliters by liquid measure; then such person or employee shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprison-

ment in the county jail for a term of not more than one (1) year, or by both such fine and imprisonment, in the discretion of the court. In addition, in the case of the commission of any of such offenses by the holder of a permit, it shall be the duty of the commission forthwith to revoke the permit held by such person and conviction of the criminal offense shall not be a condition precedent to such revocation.

HISTORY: Codes, 1942, § 10265-25; Laws, 1966, ch. 540, § 25; Laws, 1977, ch. 418; Laws, 1988, ch. 383, § 3; Laws, 2014, ch. 516, § 3, eff from and after July 1, 2014.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the references to "this chapter" in paragraph (b) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-77. Financial interest prohibition; exceptions; penalty.

(1) It shall be unlawful for the holder of a manufacturer's or wholesaler's permit, or anyone connected with the business of such holder, or for any other distiller, wine manufacturer, rectifier, blender or bottler, to have any financial interest in any premises upon which any alcoholic beverage is sold at retail by any permittee, or in the business conducted by such permittee, except that:

(a) The holder of a manufacturer's or wholesaler's permit may contract for the service of a representative in the area of governmental affairs on a part-time basis with a holder of an on-premises permit.

(b) A distiller, wine manufacturer, rectifier, blender or bottler may have a financial interest in a premises upon which alcoholic beverages are sold at retail by a permittee, or in the business conducted by a permittee, if the permittee does not sell or serve any alcoholic beverages that are distilled, manufactured, rectified, blended or bottled by the distiller, wine manufacturer, rectifier, blender or bottler having the financial interest in the premises or in the business conducted by a permittee.

(c) **[Through June 30, 2023]** A distiller, wine manufacturer, rectifier, blender or bottler may have a financial interest in and possess a distillery retailer's permit and a wine festival permit.

(c) **[From and after July 1, 2023]** A distiller, wine manufacturer, rectifier, blender or bottler may have a financial interest in and possess a distillery retailer's permit.

(d) The holder of a manufacturer's permit which is located adjacent to the Mississippi Museum of Art and is bordered by Court Street, Farish Street, South Street and Town Creek may have a financial interest in a premises upon which alcoholic beverages are sold at retail.

(2) It shall also be unlawful for any such person, or anyone connected with his, its, or their business to lend any money or make any gift or offer any gratuity, to any retail permittee, except as authorized by regulations of the commission, to the holder of any retail permit issued under the provisions of

this article. Except as above provided, no retail permittee shall accept, receive, or make use of any money or gift furnished by any such person, or become indebted to such person except for the purchase of alcoholic beverages.

(3) The commission shall not prohibit the furnishing of advertising specialties, printed materials, or other things having nominal value to a retail permittee. This section shall not be construed to prohibit the possession by any person of advertising specialties, printed materials, or other things having nominal value furnished by a retail permittee.

(4) Any person violating the provisions of this section shall, upon conviction, be punished by a fine of not more than Five Thousand Dollars ($5,000.00) or by imprisonment for not more than two (2) years, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: Codes, 1942, § 10265-26; Laws, 1966, ch. 540, § 26; Laws, 1985, ch. 422; Laws, 1986, ch. 450, § 2; Laws, 1989, ch. 361, § 1; Laws, 2007, ch. 302, § 1, eff from and after passage (approved Jan. 31, 2007); Laws, 2018, ch. 453, § 2, eff from and after July 1, 2018; Laws, 2020, ch. 429, § 7, eff from and after July 1, 2020; Laws, 2020, ch. 458, § 5, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in subsection (2) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-83. Other prohibited sales; penalty.

(1) It shall be unlawful for any permittee or any employee or agent thereof to sell or furnish any alcoholic beverage to any person who is visibly intoxicated, or to any person who is known to habitually drink alcoholic beverages to excess, or to any person who is known to be an habitual user of narcotics or other habit-forming drugs. It shall also be unlawful for the holder of any package retailer's permit to sell any alcoholic beverages except by delivery in person to the purchaser at the place of business of the permittee, unless the holder of a package retailer's permit also holds a delivery service permit or uses a delivery service permittee to effect delivery.

(2) It shall be unlawful for any permittee or any employee or agent thereof to sell or furnish any alcoholic beverage to any person to whom the department has, after investigation, decided to prohibit the sale of those beverages because of an appeal to the department so to do by the husband, wife, father, mother, brother, sister, child, or employer of the person. The interdiction in those cases shall last until removed by the department, but no person shall be held to have violated this subsection unless he has been informed by the department, by registered letter, that it is forbidden to sell to that individual or unless that fact is otherwise known to the permittee or its employee or agent.

(3) It shall be unlawful for any holder of a package retailer's permit, or any employee or agent thereof, engaged solely in the business of package retail sales under this article to sell or furnish any alcoholic beverage before 10:00

a.m. and after 10:00 p.m. or to sell alcoholic beverages on Sunday and Christmas Day.

(4) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment in the county jail for a term of not more than six (6) months, or by both that fine and imprisonment, in the discretion of the court. In addition to any other penalties prescribed by law, the commission may immediately revoke the permit of any permittee who violates the provisions of this section.

HISTORY: Codes, 1942, § 10265-32; Laws, 1966, ch. 540, § 32; Laws, 1972, ch. 508, § 1; Laws, 1977, ch. 485; Laws, 1986, ch. 486, § 2; Laws, 1989, ch. 384, § 2; Laws, 2008, ch. 442, § 18, eff from and after July 1, 2008; Laws, 2021, ch. 442, § 4, eff from and after July 1, 2021.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in subsection (3) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-85. Regulation of advertising and display of alcoholic beverages.

(1) The holder of a package retailer's permit may have signs, lighted or otherwise, on the outside of the premises covered by his permit which advertise, announce or advise of the sale of alcoholic beverages in or on said premises. Wherever the sign is located on the premises, the name of the business shall also include the permit number thereof, preceded by the words "A.B.C. Permit No."

(2) It shall be lawful to advertise alcoholic beverages by means of signs, billboards or displays on or along any road, highway, street or building.

(3) It shall be lawful for publishers, broadcasters and other kinds, types or forms of public and private advertising media to advertise alcoholic beverages; however, no alcoholic beverages may be advertised during, or within five (5) minutes preceding or following, any television broadcast which consists primarily of animated material intended for viewing by young children.

(4) Notwithstanding the provisions of this section to the contrary, it shall be unlawful to advertise alcoholic beverages by means of signs, billboards or displays in any municipality, county or judicial district which has not voted pursuant to the provisions of this article to legalize the sale of alcoholic beverages.

HISTORY: Codes, 1942, § 10265-33; Laws, 1966, ch. 540, § 33; Laws, 1968, ch. 592, § 1; Laws, 1971, ch. 350, § 1; Laws, 1982, ch. 419; Laws, 1986, ch. 450, § 1; Laws, 1988, ch. 562, § 2; Laws, 1990, ch. 569, § 5; Laws, 2017, ch. 393, § 1, eff from and after July 1, 2017.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation

changed the reference to "this chapter" in subsection (4) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-87. General penalty provision.

(1) Any person convicted of a violation of any of the provisions of this article for which no other penalty is specifically provided herein shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

(2) Any person convicted of a violation of any rules or regulations promulgated by the commission under the authority of this article shall be subject to a civil penalty to be assessed by the commission in an amount not to exceed One Thousand Dollars ($1,000.00) to be deposited into the State General Fund.

HISTORY: Codes, 1942, § 10265-38; Laws, 1966, ch. 540, § 38; Laws, 1992, ch. 459, § 3, eff from and after July 1, 1992.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in subsections (1) and (2) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-89. Injunctive relief.

In addition to any other rights and remedies which it may have, the commission, in the name of the chairman thereof, shall have the right to resort to and apply for injunctive relief, both temporary and permanent, in any court of competent jurisdiction to enforce compliance with the provisions of this article and to restrain and prevent violations and threatened violations thereof. The Attorney General, district attorneys and county attorneys of this state, shall aid and assist the commission in all such actions when requested by the chairman so to do.

HISTORY: Codes, 1942, § 10265-34; Laws, 1966, ch. 540, § 34, eff from and after July 1, 1966.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in the first sentence to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-91. Enforcement.

(1) It is hereby made the duty of every police and peace officer and every district and county attorney and the Alcoholic Beverage Control Division of the State Tax Commission to enforce the provisions of this article and to inform against and diligently prosecute persons whom they have reasonable cause to

believe to be offenders against the provisions thereof. Every such officer refusing or neglecting to do so shall be guilty of a misdemeanor, and the court, in addition to imposing the penalty therefor, shall adjudge forfeiture of his office.

(2) In any county or municipality where it is readily apparent that local law enforcement authorities in cooperation with the agents and inspectors provided by the commission cannot control the illegal sale of alcoholic beverages, the commission shall request such assistance as it may deem necessary from the Mississippi Highway Safety Patrol; and it shall be the duty of the Governor of the State of Mississippi to see that the laws of the state are properly enforced by use of the additional authority as herein provided.

(3) The officers, agents and representatives of the State Tax Commission and the Alcoholic Beverage Control Division thereof are authorized and directed to strictly enforce the prohibition laws throughout the state, except in those counties and municipalities which have voted for the legalized sale of intoxicating liquor. The State Highway Patrol, sheriffs, police departments, constables, and all peace officers, and prosecuting attorneys, the Attorney General's office, district attorneys, county attorneys, city attorneys, and all others charged with upholding the law, as well as the citizenry of this state, are hereby urged and directed to uphold the dignity of the law, to foster public respect therefor and to strictly enforce the laws against intoxicating liquor in all cases while operating a motor vehicle on the streets and highways of this state, and to enforce the law and prosecute against the wrongful use of intoxicating liquor in any county or municipality by a permit holder or licensee or anyone else under such circumstances and conditions as would lead to a breakdown in public law or is violative of the public sense of common decency, as well as to enforce the law against gambling, organized crime, or social vice and corruption.

HISTORY: Codes, 1942, §§ 10265-03, 10265-11, 10265-37; Laws, 1966, ch. 540, §§ 3, 11, 37; Laws, 1990, ch. 569, § 6, eff from and after passage (approved April 9, 1990).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in subsection (1) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

§ 67-1-93. Petition for forfeiture of property other than alcoholic beverages and raw materials; service upon owner, secured or interested party; compliance with procedures.

(1) Except as otherwise provided in Section 67-1-99, when any property, other than an alcoholic beverage or raw material, is seized under this article or Chapter 31 of Title 97, Mississippi Code of 1972, proceedings under this section shall be instituted promptly.

(2) A petition for forfeiture shall be filed promptly in the name of the State of Mississippi with the clerk of the circuit or county court of the county in which the seizure is made. A copy of such petition shall be served upon the following persons by service of process in the same manner as in civil cases:

(a) The owner of the property, if address is known;

(b) Any secured party who has registered his lien or filed a financing statement as provided by law, if the identity of such secured party can be ascertained by the agent or agency which seized the property making a good faith effort to ascertain the identity of such secured party as described in subsections (3), (4), (5), (6) and (7) of this section;

(c) Any other bona fide lienholder or secured party or other person holding an interest in the property in the nature of a security interest of whom the agent or agency has actual knowledge; and

(d) Any person in possession of property subject to forfeiture at the time that it was seized.

(3) If the property is a motor vehicle susceptible of titling under the Mississippi Motor Vehicle Title Law and if there is any reasonable cause to believe that the vehicle has been titled, the agent or agency shall make inquiry of the State Tax Commission as to what the records of the State Tax Commission show as to who is the record owner of the vehicle and who, if anyone, holds any lien or security interest which affects the vehicle.

(4) If the property is a motor vehicle and is not titled in the State of Mississippi then the agent or agency shall attempt to ascertain the name and address of the person in whose name the vehicle is licensed, and if the vehicle is licensed in a state which has in effect a certificate of title law, the agent or agency shall make inquiry of the appropriate agency of that state to determine through such agency's records the name of the record owner of the vehicle and who, if anyone, holds any lien, security interest or other instrument in the nature of a security device which affects the vehicle.

(5) If the property is of a nature that a financing statement is required by the laws of this state to be filed to perfect a security interest affecting the property and if there is any reasonable cause to believe that a financing statement covering the security interest has been filed under the laws of this state, the agent or agency shall make inquiry of the appropriate office designated in Section 75-9-501 to determine through the records of such office the name of the record owner of the property and who, if anyone, has filed a financing statement affecting the property.

(6) If the property is an aircraft or part thereof and if there is any reasonable cause to believe that an instrument in the nature of a security device affects the property, then the agent or agency shall make inquiry of the Administrator of the Federal Aviation Administration to determine through records of the administrator the name of the record owner of the property and who, if anyone, holds an instrument in the name of a security device which affects the property.

(7) In the case of all other property other than an alcoholic beverage or raw material subject to forfeiture, if there is any reasonable cause to believe

that an instrument in the nature of a security device affects the property, then the agent or agency shall make a good faith inquiry to identify the holder of any such instrument.

(8) In the event the answer to an inquiry states that the record owner of the property is any person other than the person who was in possession of it when it was seized, or states that any person holds any lien, security interest or other interest in the nature of a security interest which affects the property, the agent or agency shall cause any record owner and also any lienholder, secured party or other person who holds an interest in the property in the nature of a security interest which affects the property to be named in the petition of forfeiture and to be served with process in the same manner as in civil cases.

(9) If the owner of the property cannot be found and served with a copy of the petition of forfeiture, or if no person was in possession of the property subject to forfeiture at the time that it was seized and the owner of the property is unknown, the agent or agency shall file with the clerk of the court in which the proceeding is pending an affidavit to such effect, whereupon the clerk of the court shall publish notice of the hearing addressed to "the Unknown Owner of _____," filling in the blank space with a reasonably detailed description of the property subject to forfeiture. Service by publication shall be made in accordance with the Mississippi Rules of Civil Procedure.

(10) No proceedings instituted pursuant to the provisions of this article shall proceed to hearing unless the judge conducting the hearing is satisfied that this section has been complied with. Any answer received from an inquiry required by subsections (3) through (7) of this section shall be introduced into evidence at the hearing.

HISTORY: Laws, 1984, ch. 424, § 3; Laws, 1990, ch. 451, § 1; Laws, 1991, ch. 573, § 117; Laws, 2001, ch. 495, § 26, eff from and after Jan. 1, 2002.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the reference to "this chapter" in subsections (1) and (10) to "this article." The Joint Committee ratified the change at its August 10, 2022, meeting.

ARTICLE 3.

ALCOHOLIC BEVERAGE CONTROL DIVISION WAREHOUSE CONSTRUCTION, IMPROVEMENTS AND OPERATIONS.

Sec.

67-1-201. Definitions.
67-1-203. Warehouse construction.
67-1-205. Warehouse and distribution operations.
67-1-207. Resumption of control by state upon contract termination.
67-1-209. Contract compliance officer.
67-1-211. Special funds.

§ 67-1-201. Definitions.

In addition to the definitions provided in Section 67-1-5, which apply to this article, the following terms as used in this article shall have the following meanings unless otherwise required by the context:

(a) "Commissioner" means the Commissioner of Revenue.

(b) "Construction contractor" means an entity contracting with the Department of Finance and Administration to design and construct a warehouse under this article.

(c) "Occasional improvements" means items of maintenance, repairs, upgrades or other improvements for the warehouse or its equipment that are not performed on a monthly basis.

(d) "Regular maintenance" means monthly overhead expenses, including, but not limited to, utilities, cleaning services and lawn care.

(e) "Shipping costs" means the cost to the department per case of alcoholic beverages delivered from the warehouse to the permittee's premises.

(f) "State" means the State of Mississippi.

(g) "Warehouse" or "new warehouse" means a liquor distribution warehouse constructed under this article.

(h) "Warehouse operator" or "operator" means an entity contracting with the department to perform warehouse and distribution operations.

(i) "Warehouse and distribution operations" or "operations" means services provided to or on behalf of the state for the management of the warehouse and the distribution of alcoholic beverages. "Warehouse and distribution operations" or "operations" may include shipping; however, nothing herein shall preclude the department from entering into separate contracts for operations and for shipping.

HISTORY: Laws, 2022, ch. 483, § 1, eff from and after July 1, 2022.

Editor's Notes — Laws of 2022, ch. 483, § 18, provides:
"SECTION 18. Sections 1 through 6 of this act shall be codified as a new article in Title 67, Chapter 1, Mississippi Code of 1972."

§ 67-1-203. Warehouse construction.

(1) The Department of Finance and Administration, using the monies available in the ABC Warehouse Construction Fund created in Section 67-1-211(1) and such other monies as the Legislature may make available, shall purchase land for and shall provide for the design and construction of a warehouse for the division in the most expedient and cost-effective manner practicable as determined by the Executive Director of the Department of Finance and Administration.

(2) The Department of Finance and Administration shall select a suitable site for the warehouse within fifty (50) miles of the new state capitol building. In selecting a site, the Department of Finance and Administration shall consider the feasibility of selecting state-owned land by comparing the cost of

preparing the state-owned land for construction to the cost of acquiring other land and preparing such other land for construction.

(3) The contract for design and construction shall provide that the operator shall be consulted so that the warehouse may, so far as possible, suit the preferences of the operator in furtherance of effective operations. The contract shall also provide that the design shall aim to fill demand for the next twenty-five (25) years.

(4) A contract for warehouse construction shall not be entered into unless the construction contractor has demonstrated:

(a) The qualifications, experience and management personnel necessary to carry out the terms of the contract;

(b) The ability to comply with applicable federal and state laws; and

(c) The ability to expedite the design and construction of facilities comparable to the warehouse.

HISTORY: Laws, 2022, ch. 483, § 2, eff from and after July 1, 2022.

Editor's Notes — Laws of 2022, ch. 483, § 18, provides:
"SECTION 18. Sections 1 through 6 of this act shall be codified as a new article in Title 67, Chapter 1, Mississippi Code of 1972."

§ 67-1-205. Warehouse and distribution operations.

(1) The department shall contract for warehouse and distribution operations. The shipping contract in effect on July 1, 2022, shall remain in effect until the expiration of its term.

(2) The department shall pay regular maintenance expenses and shall reimburse the operator for services performed under the contract out of monies appropriated by the Legislature.

(3) The contract shall include the following terms:

(a) The department shall pay the operator cost-plus on these operations at a set dollar amount per case of alcoholic beverages sold. Otherwise, the contract shall not alter the current cash flow of operations;

(b) The operator shall be allotted a monthly spending limit for occasional improvements. The state may, at any time, review the operator's spending. The operator shall obtain prior state approval for any spending over the monthly limit set in the contract. The contract shall allow the operator to pay out of pocket, in which case the state will reimburse the operator on a monthly basis out of monies in the ABC Warehouse Improvements Fund created in Section 67-1-211(2);

(c) Shipping costs, where the contract encompasses shipping, shall be based on a set dollar amount per case of alcoholic beverages shipped from the warehouse to the permittee's premises;

(d) The department and the operator may provide for the operator's software to interface with the department's TAP system in a manner allowing for information sharing in furtherance of efficient operations while also protecting the security of the TAP system;

(e) The department shall develop quality and efficiency criteria for

determining whether to renew a contract for warehouse and distribution operations;

(f) The obligation of the department to proceed under the contract is conditioned upon the appropriation of funds by the Legislature and the receipt of state or federal funds. If the funds anticipated for the continuing time fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds, or the discontinuance or material alteration of the program under which funds were provided, or if funds are not otherwise available to the department, the department shall have the right, upon ten (10) working days' written notice to the operator, to terminate this agreement without damage, penalty, cost or other expenses to the department of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination;

(g) The state and the operator as parties to the contract and all terms of the contract shall be subject to and governed by the laws of the state at the time the contract is entered into, and any later amendments to such laws, through the duration of the contract; and

(h) The operator shall be required to comply with any duties, responsibilities, conditions or other provisions required by state law during the duration of the contract, regardless of whether such duties, responsibilities, conditions or other provisions were required by state law at the time the contract was entered into.

(4) The initial contract for operations shall terminate on the earlier of: (a) four (4) years from the date it commences; or (b) the last day of the use of the warehouse that is in service on July 1, 2022. The contract may be renewed for four (4) years, with another option to renew at the end of that four-year term. The department shall issue requests for proposals before entering any subsequent contract. Requests for proposals shall be required whenever a contract is not renewed, but no less frequently than every twelve (12) years.

(5) The contract shall provide that all employees needed for operations shall be employees of the operator.

(6) A contract for warehouse and distribution operations shall not be entered into unless the operator has demonstrated:

(a) The qualifications, experience and management personnel necessary to carry out the terms of the contract; and

(b) The ability to comply with applicable federal and state laws.

(7) A contract for operations shall not be entered into unless the following requirements are met:

(a) In addition to fire and casualty insurance, the operator provides at least Ten Million Dollars ($10,000,000.00) of liability insurance. The liability insurance shall be issued by an insurance company with a rating of at least an A- according to AM Best standards. In determining the adequacy of such insurance, the Department of Finance and Administration shall determine whether:

(i) The insurance is adequate to protect the state from any and all

actions by a third party against the operator or the state as a result of the contract;

(ii) The insurance is adequate to protect the state against any and all claims arising as a result of any occurrence during the term of the contract;

(iii) The insurance is adequate to assure the operator's ability to fulfill its contract with the state in all respects, and to assure that the operator is not limited in this ability because of financial liability which results from judgments; and

(iv) The insurance is adequate to satisfy such other requirements specified by the independent risk management/actuarial firm.

(b) The sovereign immunity of the state shall not apply to the operator. Neither the operator nor the operator's insurer may plead the defense of sovereign immunity in any action arising out of the performance of the contract.

(c) The operator shall post a performance bond to assure the operator's faithful performance of the specifications and conditions of the contract. The bond is required throughout the term of the contract. The terms and conditions must be approved by the department and the Department of Finance and Administration, and such approval is a condition precedent to the contract taking effect.

(d) The operator shall defend any suit or claim brought against the state arising out of any act or omission in operations, and shall hold the state harmless from such claim or suit. The operator shall be solely responsible for the payment of any legal or other costs relative to any such claim or suit. The operator shall reimburse the state for any costs that it may incur as a result of such claim or suit immediately upon being submitted a statement therefor by the Attorney General.

Any suit brought or claim made arising out of any act or omission in operations shall be made or brought against the operator and not the state.

The Attorney General retains all rights and emoluments of his or her office which include direction and control over any litigation or claim involving the state.

HISTORY: Laws, 2022, ch. 483, § 3, eff from and after July 1, 2022.

Editor's Notes — Laws of 2022, ch. 483, § 18, provides:

"SECTION 18. Sections 1 through 6 of this act shall be codified as a new article in Title 67, Chapter 1, Mississippi Code of 1972."

§ 67-1-207. Resumption of control by state upon contract termination.

A plan shall be developed and certified by the commissioner which demonstrates the method by which the state would resume control of the warehouse upon termination of the contract for operations. The plan shall be submitted for review and comment to the Governor, the Lieutenant Governor,

the Speaker of the House, the Chairmen of the Senate Finance Committee and the House Ways and Means Committee, and the Joint Legislative Committee on Performance Evaluation and Expenditure Review.

HISTORY: Laws, 2022, ch. 483, § 4, eff from and after July 1, 2022.

Editor's Notes — Laws of 2022, ch. 483, § 18, provides:
"SECTION 18. Sections 1 through 6 of this act shall be codified as a new article in Title 67, Chapter 1, Mississippi Code of 1972."

§ 67-1-209. Contract compliance officer.

(1) The commissioner shall designate an employee of the department as a contract compliance officer within the department who shall monitor the contract between the state and the operator for warehouse and distribution operations, and shall assure operator compliance with its performance work statement.

(2) The contract compliance officer shall be responsible for monitoring all aspects of the warehouse. The officer shall be provided an on-site work area, shall be on site on a daily basis, and shall have access to all areas of the warehouse and staff at all times. The operator shall provide any and all data, reports and other materials that the contract compliance officer determines are necessary to carry out monitoring responsibilities under this section.

(3) The contract compliance officer shall report at least annually, or as requested, to the Governor and the Legislature.

HISTORY: Laws, 2022, ch. 483, § 5, eff from and after July 1, 2022.

Editor's Notes — Laws of 2022, ch. 483, § 18, provides:
"SECTION 18. Sections 1 through 6 of this act shall be codified as a new article in Title 67, Chapter 1, Mississippi Code of 1972."

§ 67-1-211. Special funds.

(1) A special fund, to be designated the "ABC Warehouse Construction Fund," is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Monies in this special fund shall be used to assist the Department of Finance and Administration in paying the costs associated with land acquisition for, and the design, construction, furnishing and equipping of, a new warehouse for the Department of Revenue's Alcoholic Beverage Control Division. In addition, monies in this special fund shall be used to pay the costs of relocating inventory to the new warehouse from the warehouse that is in service on July 1, 2022. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund.

(2) A special fund, to be designated the "ABC Warehouse Improvements Fund," is created within the State Treasury. The fund shall be maintained by

the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Monies in this special fund shall be used to assist the Department of Revenue in paying the costs associated with occasional improvements. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund.

HISTORY: Laws, 2022, ch. 483, § 6, eff from and after July 1, 2022.

Editor's Notes — Laws of 2022, ch. 483, § 18, provides:
"SECTION 18. Sections 1 through 6 of this act shall be codified as a new article in Title 67, Chapter 1, Mississippi Code of 1972."

CHAPTER 11.

MISSISSIPPI NATIVE SPIRIT LAW

Sec.
67-11-11. Annual privilege license tax; excise tax on each case of native spirits; exemption of certain native spirits from excise tax.

§ 67-11-11. Annual privilege license tax; excise tax on each case of native spirits; exemption of certain native spirits from excise tax.

(1) Upon every producer holding a permit for the production of native spirits, there is levied and imposed for each location for the privilege of engaging and continuing in this state in the production of native spirits an annual privilege license tax in an amount equal to Three Hundred Dollars ($300.00) for each one thousand (1,000) gallons, or any part thereof, of native spirits produced by the distillery.

(2) There is levied and assessed an excise tax upon each case of native spirit sold by a producer to any source to be collected from the producer in the amount provided for in Section 27-71-7. However, native spirit produced in Mississippi for export and sale without this state and native spirit produced in Mississippi and sold to the department shall not be subject to the excise tax, nor shall the tax accrue or be collected on native spirits dispensed, as free samples in quantities of not more than two (2) ounces, in the tasting room of a native distillery.

(3) The privilege tax imposed by subsection (1) of this section shall be collected in the same manner as presently provided by law for the collection of other alcoholic beverages. The excise tax imposed by subsection (2) of this section shall be reported monthly by the producer to the department on all sales made in Mississippi to consumers at the location of the native distillery in its immediate vicinity, along with a statement of gallonage produced during that month, and the producer shall remit the tax due and owing with each report. The producer shall also include in the report a statement of gallonage sold and exported for sale outside this state.

(4) All taxes levied by and collected under this section shall be deposited in the State General Fund.

HISTORY: Laws, 2021, ch. 388, § 6, eff from and after July 1, 2021; Laws, 2022, ch. 474, § 1, eff from and after passage (approved April 18, 2022).

Amendment Notes — The 2022 amendment, effective April 18, 2022, in (1), substituted "Three Hundred Dollars ($300.00)" for "Ten Dollars ($10.00)."